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A FAITHFUL PICTURE OF THE POLITICAL SITUATION IN NEW ORLEANS AT THE CLOSE OF THE LAST AND THE BEGINNING OF THE PRESENT YEAR, 1807.

With Editorial Notes by JAMES E. WINSTON
Professor of History, Newcomb College,
New Orleans, La.**

ABBREVIATIONS USED

Adams—Henry Adams, History of the
United States.

Gayarré—Charles Gayarré, History
of Louisiana.

Martin—Francois-Xavier Martin, His-
tory of Louisiana.

McCaleb—Walter Flavius McCaleb,
The Aaron Burr Conspiracy.

Moniteur—Moniteur de la Louisiane.

L. B.—Letter Books of W. C. C. Claiborne.

La. Ga.—Louisiana Gazette.

Qy.—Louisiana Historical Quarterly.

The Notes of the Editor are Indicated Thus: W-1. The Original
Footnotes of the Author by Other Marks

INTRODUCTION

The events so vividly described in the following pages took place in New Orleans in the winter of 1806-1807.

At that time the city and its environs constituted a comparatively small community, which had only recently come under the control of the United States. While enterprising Americans were reaching out for the control of matters pertaining to industry and commerce, Creole influence was predominant in society and politics. With grief and resentment this group had witnessed the lowering of the tri-color at the *Place d'Armes* on the memorable 20th of December, 1803, and with difficulty were adjusting themselves to the new order of things.

From a physical point of view there is little in the New Orleans of Claiborne's day to suggest the metropolis of our own time. The community was an unhealthy one; the air reeked with foul odors; the day of paved streets lay far in the future;

**The writer is indebted to Professor Walter L. Fleming, of Vanderbilt University, for having put at his disposal a copy of the above pamphlet.

educational facilities were in their infancy. Only a year or two before the story recorded in the ensuing narrative opens, the first Protestant congregation had been organized in an outstanding Catholic community; but religious leaders of whatever faith were dismayed at the popular indifference toward things of the spirit, while gaming and the dance halls numbered their devotees by the hundreds.

Over this cosmopolitan community, with its French and Spanish traditions, an American in the person of Governor Claiborne held sway. His task was not an enviable one. Regarded as an outlander by the Creole element, the borders of the territory over which he ruled were menaced by a power regarded by every frontiersman as the arch-enemy of their own government. Not only that, but it was rumored around in his capital by leading Spanish officials that those who looked back with a kind of sentimental regret to the days of Spanish rule, might confidently expect at no distant date the restoration of that power.

Toward the close of December, 1806, General Wilkinson arrived in the city, and shortly thereafter became the storm center of a series of events characterized as a "reign of terror" by the writer of the Faithful Picture. The purpose of the General's coming was to save the community from the designs of Burr. In quick succession came the embargo of December 9th, military arrests, conflicts between the civil and military authorities, lengthy and heated debates in legislative halls.

While the document in question is avowedly partisan in tone, the facts recorded therein are accurately set forth.

So far as authorship is concerned, it was written either by Edward Livingston or Judge James Workman, both of whom occupy a prominent place in its pages. From contemporary allusions we know that a pamphlet was written by Workman, and certainly that one was contemplated by Livingston. The conclusion as to its authorship must, therefore, rest upon internal evidence, which in all probability points to Workman as the author.

J. E. W.

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FAITHFUL PICTURE
OF THE
POLITICAL SITUATION
OF
NEW ORLEANS,

AT THE CLOSE OF THE LAST AND THE BEGINNING

OF THE PRESENT YEAR

1807.



BOSTON:

RE-PRINTED FROM THE NEW-ORLEANS EDITION.

1808.

ADVERTISEMENT

Many causes conspire to render it desirable that a faithful detail of the late transactions in Louisiana, should be at this time collected and presented to the public. If any great or important political changes await the nation, and many with deep concern apprehend that some such crisis is at hand, the occurrences of the last winter in that country, remote as it is, may perhaps one day or other considered as among the more immediate causes at least of hastening events to which most men look forward with dread, and all with anxiety. In a state of precarious peace with all the principal maritime powers of Europe, and apparently on the eve of a war with that one in particular, from whose enmity there is most to fear, the country is perhaps entering on an untried state of things; and it may eventually prove to have been prophetically said upon the floor of Congress, that "if ever the United States goes into a war they will not get out of it with the present constitution." But as if in anticipation of the period thus fixed for the fulfillment of the prediction, some measures lately adopted at New Orleans, and the manner in which they have been countenanced and followed up by the Supreme Guardians of the nation, induce many to doubt whether the Constitution has lasted even until the war begins; or at least, whether it has not received a paralysing shock benumbing its most valuable energies, and rendering it little less than the inanimate form of a system to amuse the curious in theories; a mere abstract scheme of government, whose vital principles, on every pretext of necessity or public exigency, the arm of physical power may practically dispense with at discretion. But whatever may be the political effect of the measures proposed as the subject of this publication, it is certain they have excited much curiosity and not a little interest wherever they have been heard of in the United States; a succinct history of the period, therefore, cannot be unacceptable. Already indeed, most of these interesting events have been partially published in detached pieces; but a complete detail of the whole, though much desired, has never been before given; a work, however, which the present writer did not attempt, until disappointed in a hope, which he some time ago indulged, of seeing the task undertaken by one of more talents and better information than himself. Of nearly all the transactions here

related, however, he was an eye witness; and is therefore in some measure qualified to give at least a faithful narrative of them. He thinks it important, also, that the publication of such a narrative should be no longer delayed. In many of these transactions there has been so much obvious irregularity, and daring deviation from principles heretofore held sacred, that the facts should be related while yet fresh in the memory, and while so many living witnesses are within reach to attest their truth. A few years hence the story might otherwise be rejected as pregnant only with the mishapen monsters of a vindictive fancy, and at last, for some political purpose of the moment, perhaps reasoned into impossibilities, or glossed over by some skilful apologist. Were it indeed possible by such means, to consign the whole of these transactions completely to oblivion, the nation would perhaps have reason to rejoice at their fate. Precedents of such a perilous character ought always to be kept as much as possible out of view. But unfortunately, there are too many whom the events of that mysterious period have so deeply affected both in personal suffering and in reputation, and on whose feelings they have made an impression so poignant and indelible, that they cannot be forgotten. The story will never die altogether; that it may live free from misrepresentation is the object of the following pages.³

The writer has another and a powerful motive for presenting to the public a faithful picture of the last winter at New Orleans; a desire to do justice to the country which was chosen to be the theatre of these extraordinary scenes. The true character of the inhabitants of that country unfortunately is not generally estimated as it deserves to be in the United States. Should it therefore hereafter only appear on record, that certain bold and unprecedented measures of illegal violence had been resorted to on the part of the government, it may be suspected that those measures had for their justification the magnitude and imminency of the menaced danger; that possibly the country itself was unsound in its attachment to the government, turbulent or treacherous. It will scarcely be credited some time hence, that, without a well founded apprehension of more immediate danger, the mysterious speculations or even intrigues of a few individuals in another part of the continent, or the assemblage of forty or fifty unarmed men, however unequivocal

NOTE—The numbers throughout this paper are the original pages of the pamphlet.

their designs, at the distance of a thousand miles and upwards, could have induced the officers of the United States at New Orleans to conceive themselves authorised to suspend the most essential privileges which are guaranteed to the citizen by the constitution of his country, disarm the civil authority, and at their own discretion arrest, imprison and transport citizens of the first respectability; extremities to which they could not, of their own authority, legally proceed, had there ever been an open rebellion in the country, and a well appointed army of rebels, actually at the very gates of the city. That there has been such a wanton usurpation of unnecessary power cannot be believed without difficulty: to find some plausible motive therefor for that usurpation, the country itself runs the hazard of an unjust stigma. Already indeed, it has been more than once hinted, by some of those interested in devising excuses for the curious steps at that time taken, that the country was much suspected of dissatisfaction, and of being but too favorably inclined to the views of the dreaded conspiracy. But the friends of the country have ever fearlessly but in vain challenged an investigation. Proofs of the fact have been loudly called for but never yet produced. All such insinuations have in truth proved to be cruel and unfounded libels on a peaceful and friendly people, whom none have yet dared to accuse openly and who, instead of disaffection, have ever given unquestionable proof of their loyalty by a uniform and respectful obedience to the *will* of the United States: a conduct the more reasonable when it is recollected that the laws of those states are new in Louisiana, and have been *imposed* on the people of that country by a nation to which they are as yet strangers in political relation, as well as language and habits; to which they are in fact as yet little else than a foreign colony, *taxed without being represented*, and bound by civil institutions to which they have never yet even constructively assented.⁴

The province of Louisiana has of late years engaged so much of the public attention, and the means of information respecting it have been so multiplied in the United States since its late cession, that it is unnecessary to introduce this narrative with any general remarks on a country already so well known. The writer therefore hastens towards the period, a sketch of which is here more particularly intended.

Both the Spaniards and the French relinquished the flourishing colony of Louisiana to the United States, with reluctance. The sensibility of some of the French on the occasion, was particularly observable at the delivery of the province to the American Commissioners. That the Spaniards also suffered the sovereignty of the country to pass out of their hands unwillingly, was equally visible. The officers of the government protracted their stay in New Orleans many months beyond the time limited by the treaty; until indeed the American government, distrustful of their views in such unreasonable delay, at length actually forced their departure. But even at this moment they are unwilling to believe that the country is really lost to them forever; and an opinion is still cherished among them, that the United States hold the place only in trust during the war, and that a European peace will restore it to its ancient masters. Nor would it be surprising, (and no disrespect is intended to the inhabitants of Louisiana in suggesting the idea,) if many of them at that time sympathized in the sentiments and hopes of the friends who were leaving them. Few indeed, if any in that country, are now dissatisfied with the general principles of the existing government. But it would be a poor compliment at least to their hearts, to suppose, that on hoisting of the American flag in New Orleans, the Louisianians all suddenly divested themselves of all their former attachments. The writer respects that people too highly to believe, what in truth they have ever been too honest to affect, after a rapid succession of changes of allegiance, unsought on their part, and all negotiated even unknown to them, that they became at once unmeaningly devoted to the domination of strangers, speaking another language, and introducing modes of government till then unknown to them, and almost wholly destitute of those splendid exteriors of power which are employed by other governments to command sudden respect. The American constitution and laws require to be studied before they can be justly appreciated. Let it therefore be considered rather as an honor than a reproach to the Louisianian, that, after having lived perhaps a long life under the mildest government known in a Spanish colony, and there grown rich in wealth and honor, amidst a numerous and flourishing kindred, he could not refrain from a tear at the departure of his long and respected patrons, and still cherishes a grateful remembrance of their worth. But let it not be hence inferred, that it is here intended to represent the inhabi-

tants of Louisiana as malcontents, from whose disaffection the United States can with justice entertain the slightest apprehension. After having so long and so patiently suffered a privation of certain important political rights, which are, in their opinion, guaranteed to them by the treaty which gave them to the United States, their unaffected deference to the decision of the general government on that question, and their silent submission to the unkind, and perhaps scarcely civil treatment, which they received on their first respectful assertion of those rights, such almost unprecedented forbearance on their part furnishes a convincing proof that a disposition to faction or revolt, makes no part of the Louisianian character. The Louisianians without doubt, in common with the human race every where, have their weaknesses and imperfections. But among their virtues, industry, temperance and hospitality, eminently prevail: and these are not qualities with which any aptitude to disturb the public tranquillity can easily combine. The inhabitants of Louisiana, like most cultivators of the soil, are of a domestic turn, sincere friends to peace and social order and active in the performance of all public duties assigned to them. Of their natural disposition to good order, there is ample proof in the undisturbed state of peace and tranquillity which the country continued to enjoy after the late cession, during an interval of nearly a year, in which almost an interregnum of all perceptible authority prevailed, when it was unknown by what laws the country was to be governed, or indeed whether there was any law in the province or not. These truths were so obvious, that as soon as the United States had obtained peaceable possession of the country, their troops were no longer kept together at New Orleans; the government, by their conduct, shewing a just and judicious confidence in the good sense and friendly disposition of the people.^{w-1}

(w 1) The Spanish forces, according to the terms of the treaty of April 30, 1803, were to be withdrawn within three months from that date. The former Spanish officials, Casa Calvo and Morales, the intendant, remained at New Orleans under one pretext or another, working persistently to estrange the inhabitants from the new regime, until February of 1806. On the first of the month Morales was forced to leave for Pensacola; and two weeks later,—on the 15th—the Marquis Casa Calvo made his exit, “full of wrath and indignation”. L. B., III, 239-241. Cf. Gayarré, *lv*, 83-85, 101, 125, 127-128, 131-132. Martin,

328 implies he did not leave until the following summer.

On January 4, 1805 the petition of the Louisianians for a more liberal form of government was presented in the Senate. On March 2 Congress provided for a territorial form of government, but the slight concessions made were far from soothing to the inhabitants. Cf. Gayarré, *lv*, ch. 2. For pledge of loyalty to the United States, *Amer. State Papers, Miscell.*, 1,399. In view of the fact that this loyalty was to be called into question within a short period of time, the following paragraph is not without significance. It is taken from the “Repre-

sentation and Petition of the Representatives Elected by the Freemen of the Territory of Louisiana":

"Little as we are acquainted with the United States, we know by heart your great declaration of independence; we recollect the noble deeds of your heroes who bled in your glorious revolution. We are no strangers to the constitution of the United States and the bill of rights, and constitutions of the several states in the Union, and it was upon those highly respectable and absolutely binding authorities, that we had anticipated the blessings of freedom". (Pamphlet in Howard Memorial Library).

Not only were the teachings of the French Revolutionary writers "in the air" at this time, but it has recently been shown that the libraries of prominent citizens under the old regime contained the works of Locke, Voltaire and Rousseau. See the "Inventory of the Estate of Sieur Jean Baptiste Prevost, New Orleans, 1769" in the *Qy.*, 1x—July, 1926.

As to the disposition of the native inhabitants to faction or revolt, the opinion of the author of the "Faithful Picture" that the Creoles were loyal is abundantly borne out by contemporary evidence. The statement of Adams, III, 312, that "in New Orleans a breath would blow away the national authority" is a mere assumption on the part of this eminent historian. Though Claiborne wavered amid the trying scenes when the city was supposed to be threatened with an attack by Burr, he was consistent in his opinion as to the loyalty of the foreign element over whom he held sway. More than once he expressed the opinion that the "Ancient Louisianians",—as he termed them—would not fight against their new masters in the event of war with Spain. *L. B.*, 1v, 25, 27, 29. He wrote to Dearborn as follows:

"My opinion as to the native Louisianians has always been the same; a majority are well disposed, and were it not for the calumnies of some Frenchmen who are among us, and the intrigues of a few ambitious unprincipled men, whose native tongue is English, I do be-

lieve that the Louisianians would be very soon among the most zealous and faithful members of our Republic".

Similarly he wrote Jefferson June 28, 1807, that the ancient inhabitants were now the best supporters of the government. Walter F. McCaleb, the author of the well-known "Aaron Burr Conspiracy" concludes that at the crisis and afterwards the conduct of the Creoles was exemplary. He points out that even Wilkinson, who, more than any other was responsible for the terror that gripped the city after December 9, 1806, confessed to Clark that the Creoles never had any connection with Burr. See his work, p. 238.

On this matter the reply of the territorial council to Governor Claiborne's Message of January, 1807, dealing mainly with the conspiracy, is conclusive:

"It is indeed difficult to believe that, in the bosom of a government the most free that exists on earth, plots, the success of which must be fatal to liberty should have been formed. If, however, it be true, that the ambitious and depraved men who have conceived such criminal projects have found proselytes, the Legislative Council are convinced that it is not among the inhabitants of this territory, and that, notwithstanding the dissatisfaction which they once manifested openly when they thought themselves aggrieved, there is no perfidy, no treason to be apprehended from them by the general government. If they do not yet possess all the privileges enjoyed by American citizens, they already set so much value on the rights which have been granted to them that their late privation of those rights in the present stormy circumstances has created among them the most serious alarms". *L. B.*, IV, III; *Moniteur*, February 14, 1807.

One recalls, in this connection, the bitter controversy that arose in the crisis of 1814 as to the loyalty of the Creoles. Cf. Bernard Marigny, "Reflections on Jackson's Campaign", *Qy.*, vi—January, 1923.

But the troops, though thus wisely withdrawn from the capital, were but too much wanted in other parts of the country. Secure as the government might have been, if not of the affection, at least of the obedience and good conduct of the inhabitants of Louisiana, it ought to have been recollected, that both on the East and on the West of the province the Spaniards were still in force;

and that many of those who had been lately expelled from Louisiana, were now hovering on its frontiers, provoking vexatious contests about limits, and occasionally violating with armed force, and even with outrage, the unequivocal and undisputed territories of the Union.

At the Mobile, the American trade was incessantly harrassed with searches, and obstructions, and too often had to submit even to unjust exactions. From Baton Rouge armed parties frequently entered the Mississippi territory; and at one time seized some American citizens[†] who resided near the frontier, and carried them off as prisoners. From Nagogdoches the American settlements near the Sabine and on the Red river were continually menaced and disturbed. And at length a Spanish army of several hundred men having collected there, they proceeded to acts of open hostility, took several prisoners, and opened an asylum for deserters from the American army, and even for slaves, who were accordingly invited by proclamation, to escape from their masters. From the Sabine to the city of New Orleans, the country was open to the invader. There was but one place of strength on the road, and that was at Baton Rouge, a settlement still in possession of the Spaniards, though within the territories claimed by the United States. Such was the position of affairs in Louisiana, towards the close of the year 1805, without a single regiment or half regiment of regular troops to repel the aggressions or resent the insults with which the country was on every side assailed; and by a foe, in whom the people could see nothing to respect but the increasing boldness with which they daily set the country at defiance.^{w-2}

(w-2) In accordance with an act of Congress, President Jefferson, May 20, 1804, organized Mobile as a customs district, Fort Stoddert just above the thirty-first parallel, being designated as the port of entry for said district. Monroe and Pinckney carried on negotiations with the Spanish government until May, 1805, without arriving at any satisfactory conclusion as to either the eastern or western boundary of Louisiana. John H. Latané, *A History of American Foreign Relations*, ch. v. Cf. Clark to Madison, December 13, 1803. *Amer. Hist. Rev.*, XXXVIII, 356 (Jan., 1928).

For Claiborne's preparations for war in view of the Spanish threats on the

western frontier, see Gayarré, I, 88, 137, 150, etc. As will be shown below, the more prominent members of the organization known as the "Mexican Society" or Association urged in their defence that a state of actual or potential war with Spain existed in 1805-1806. A striking commentary upon the enthusiasm with which a war with that country would be greeted is to be found in the *La. Ga.* for September 23, 1806. The writer is happy to learn that the government has at length issued positive orders to repel with force the aggressions of the enemy, whose intrigues to disturb the repose of the country were notorious. A thousand and other injuries and insults demanded instant redress. The

[†]Two men of the name of Kemper, who on their passage, afterwards down the Mississippi, confined in a Spanish boat, were gallantly rescued by Lieutenant Wilson, of the United States' Artillery, and a small party of soldiers.

young men composing the Battalion of Orleans Volunteers and the Orleans Troop of Rangers were implored to lay aside the pleasant ways of peace and to answer the call of their country.

According to John Graham, secretary of the Territory, a war with Spain and the consequent invasion of Mexico, was a general topic of conversation. He averred moreover that he had been "credibly informed" that Governor Claiborne had suggested a plan for the capture of Baton Rouge. *La. Ga.*, July 5, 1808. It is more likely that such a proposal was made to that official.

The military associations referred to were probably those units composed of

individuals recently arrived from the United States, who had been organized by Claiborne. At the beginning of 1807 citizens who were not members of any military organization agreed to enroll in such on account of the danger of war with some foreign power. Cf. Martin, 323, McCaleb, 225. The last named writer states in his Preface that the files of the *Orleans Gazette* are to be found in the City Hall, and constantly cites this journal. As a matter of fact it is the *Louisiana Gazette* which he has in mind; this journal contains the most complete account of the events referred to in the "Faithful Picture."

These events of course did not fail to produce at New Orleans the feeling and the fears which the occasion naturally suggested. There was already in that city a respectable battalion of volunteers. In addition to this, a "military association," consisting of the most respectable citizens, and divided into several companies, was embodied for the immediate protection of the town. Among the Americans particularly, a universal spirit of enterprize and resentment prevailed. Private associations were formed with objects beyond a mere defensive war. And signal retaliation on the Spanish possessions in that vicinity was every where spoken of with confidence and enthusiasm.

In these feelings however of the citizens of New Orleans, the general government refused to sympathize. To the poignant mortification of every friend to that country, the session of Congress of 1805-6 closed, and little efficient notice was taken of the perilous situation of Louisiana. Congress as if regardless of the dangers and indignities to which that province was exposed, shewed but little disposition to attend either to its past grievances or to its future security. Notwithstanding the official, though imperfect account of these transactions which the President communicated, together with his opinion, that an amicable accommodation of the then existing difficulties between Spain and the United States was hopeless, his representations were altogether unheeded. Instead of Spain, the public resentment was directed rather against England, on points important without doubt, but of little else than a mere commercial nature.^{w-3}

This unexpected turn of general politics in the United States, naturally leads the mind to some painful reflections on the inadequate causes that are sometimes suffered to operate

(w-3) For the proceedings of this session of Congress, see Adams, III, ch. 6, *et. seq.* He represents Jefferson's policy of "conquering by peace" as keeping his country continually on the brink of war with Spain.

powerfully on public sentiment. When an obscure individual of the name of Pierce, was unfortunately, but in a great measure accidentally killed at New York, by a shot from a British frigate; that city was suddenly thrown into a ferment of indignation; and many other cities warmly participated in the feelings excited there on the occasion.^{w-4} That this, with many, was a mere electioneering trick is sufficiently proved by⁷ the circumstances of the times, and the use openly made of it. From some motives or other however, the whole nation was for several weeks clad in mourning and in menace. In that one gun from the *Leander*, on the Atlantic shore, there was more insult and aggression than in all the daring violations already mentioned on the western frontier. As if the nation were wholly insensible to indignity, except on one side, the voice of the people throughout the continent was raised in solemn dirge over the tomb of this one solitary victim of mischance, while on the western frontier citizens were attacked with impunity in their houses by a foreign army, within the territories of the Union, plundered of their servants and property, seized and dragged into confinement, and then actually in the dungeons of Nagogdoches, or St. Antoine.^{w-5} In the general outcry against England the sufferings of these citizens were forgotten or lightly mentioned as distant evils, affecting neither the honor or safety of the nation. Such however, appeared to be the disposition of the general government, as well as of the Atlantic States generally: and consequently the Americans in Louisiana thus disarmed by natural policy, had to abandon all those projects of attack and defence, which they had formed in the expectation of an immediate war. For a time at least, they were compelled to smother their just resentments, and suppress all that ardent spirit of ingenious and patriotic enterprise, which not many months before had animated every breast among them.^{w-6}

(w-4) For the circumstances in connection with the killing of Pierce: Adams III, 199-200.

(w-5) By "St. Antoine" is meant San Antonio.

(w-6) Among the indignities which Claiborne complained of in his letter to Herrera were the turning back by the Spanish of Colonel Freeman and his party, who were ascending the Red river; the removal of the American flag from the Caddos; the sending under guard to San Antonio of three American citizens by the name of Irvin, Shaw and Brewster; and the harboring of fugitive slaves. For the correspondence of these two officials relative to these incidents,

see *L. B.*, III, 383-386, 392-395. The correspondence is also printed in *La. Ga.*, January 20, 30, 1807.

In connection with the neglect of Louisiana by the federal government, Claiborne writing to Cowles Mead, who was in charge of the Mississippi Territory, under date of December 5, 1807, complained that no letter had been received from Washington since the previous July. *L. B.*, IV, 43.

The consequences of this policy were such as were naturally to be expected. The Spaniards on the Sabine were emboldened by the supineness of government. And being reinforced from the interior of Texas, they again appeared in arms with the Governor of the province at their head; and encamping within the limits of the United States' territory at Nachitoches, renewed their threats and recommenced hostilities. The transactions which followed are very generally known. The United States' post at Nachitoches, was now strengthened by the addition of all the regular troops that could be immediately collected there. Several corps of militia also were called from the neighbouring counties, where many Americans were settled, and from the Mississippi territory. Governor Claiborne proceeded himself to Nachitoches and the other western counties to hasten the preparations; but at the same time not without a hope of being able to avert the calamities of the impending conflict by amicable and honorable negotiation with the invader. In this reasonable expectation however, he was disappointed; the work of peace was reserved for a more happy negotiator. After a fruitless attempt to persuade the Spaniards to retire beyond the Sabine until the disputed boundary should be settled by their respective governments—Claiborne became impatient for the conflict, which to him then appeared inevitable. His intention was to dislodge the enemy before they could be further reinforced. And an attack would have been immediately made on the Spanish camp, had not General Wilkinson's previous orders to the regular troops directed them to act on the defensive only until his arrival. Whether these orders were dictated by the General's jealousy, or his distrust of Claiborne's military qualifications, or whether^s from some secret sympathies with those who served his Catholic Majesty, still remains unknown. Wilkinson at length arrived and Claiborne returned to New Orleans. Between Wilkinson and the Spaniards negotiations were now renewed under more favorable auspices; and either by the superiority of his diplomatic talents, or the skillful use of some secret^t to which Claiborne was a stranger, the

^tThe General now says, that he prevailed in this negotiation, by communicating Burr's plans to the Spanish general, shewing him the necessity at least of harmony, if not of co-operation also between them, to resist the expectation. It was the terror of Burr's name therefore, and not of the arms of Wilkinson, that "drove the Spaniards thirty leagues on the other side of the Sabine," as the general lately boasted. How he could have driven the Spaniards so far on the other side of that river, without crossing it himself, remains to be explained. The General sometimes shoots with a long bow.

General in a short time brought the Spaniards to the very terms which the less fortunate Governor had before proposed to them in vain.^{w-7}

On Claiborne's return to New Orleans, and before the result of Wilkinson's negotiations at the Sabine were known, much fruitless exertion was used to prevail on some of the city militia to join the army at Nachitoches. This circumstance is mentioned, not so much on account of its own immediate importance, as because reference will necessarily be had to it in a subsequent and material part of this narrative.

The backwardness on this occasion of the citizens of New Orleans, who a few months before had manifested so much public spirit, is easily accounted for. On former occasions they had believed, that in their readiness to take the field to resent

(w-7) Governor Claiborne left New Orleans July 5, proceeding by way of Natchez to Natchitoches, where he was the latter part of August. His letters show that he was alarmed by reports of the Spanish advance upon the Sabine, and he was even apprehensive of an attack upon New Orleans. A strong Spanish garrison was stationed at the Bayou Pierre settlement, while Natchitoches was threatened by a force of the enemy estimated at from 1200 to 1500 men. Colonel T. H. Cushing sent a letter to the Spanish commander on August 5, protesting against his advance into American territory. General Herrera, writing from Prudhomme plantation on the next day, admitted crossing the Sabine for the purpose of protecting territory belonging from time immemorial to his royal master. Claiborne wrote him August 26 protesting against the Spaniards occupying disputed territory. Governor Cordero, at Nacodoches, withdrew his troops from Bayou Pierre to the west bank of the Sabine September 27, but recrossed that stream within the next few days. General Wilkinson arrived at Natchitoches September 22. Two days later he wrote the Spanish Governor, demanding the withdrawal of the latter's troops to the west bank of the Sabine, which he assumed to be the boundary line of the two nations. He pointed out to Cordero that the negotiations then in progress between the two governments should preclude any change of military position by either of the rival forces. On October 4 he informed the Secretary of War that the Spanish troops had withdrawn to the west side of the Sabine, in consequence of which he had discharged the militia, and countermanded those

on the march to his aid with the exception of one hundred dragoons and mounted infantry. In a communication to the same official of October 21 he mentioned that the Spaniards were claiming as the boundary line the Arroyo Hondo,—the little stream tentatively adopted as the boundary line between Texas and Louisiana in the eighteenth century.

From the testimony of James L. Donaldson of a later date, Wilkinson "had concluded a hasty compromise with the Spaniards", influenced presumably by the news of Burr's threatened advance upon New Orleans. *La. Ga.*, March 20, 1807. Cf. Martin, 335. McCaleb, ch. VI, gives an account of the negotiations connected with the "Neutral Ground Treaty." According to Channing, *History of the United States*, lv, 341, when Wilkinson arrived at the frontier the Spaniards had retired. As has been pointed out he arrived at Nacogdoches on September 22, and two days later wrote Cordero demanding the withdrawal of the Spanish troops to the west side of the Sabine. *La. Ga.*, January 30, 1807. Despite Wilkinson's tall talking and the tone of bluster that characterized the exchanges of Claiborne and the Spanish officials, it is difficult to resist the conclusion that none of these was "spoiling for a fight." Claiborne returned to his capital October 6. He felt his presence was needed for the purpose of "exciting a military spirit" among its apathetic inhabitants. The letters of Claiborne and Wilkinson relative to the military situation are to be found in the *L. B.*, lv, 8-14. The above account is based on vols. III and IV of the same. The documents are also printed in *La. Ga.*, January 20, 1807.

the wrongs of the country, they only anticipated the wishes, and entitled themselves to the thanks of the government. How great and discouraging therefore was their disappointment, when they found, several months afterwards that notwithstanding the insecurity of the frontier, and indeed of the whole country, not one additional soldier was sent for its protection; that apparently in consequence of some commercial difficulties with England, Louisiana and all her concerns, the injuries which her citizens daily received from foreign aggression, and the indignities to which they were exposed from foreign insolence, engaged as little of the attention of the national councils as if the province had not been under the protection of the United States! This spirit of enterprize in Louisiana had accordingly fled with the energies of the government and was not to be recalled with ease on the present occasion. Claiborne however determined to make an experiment of the dispositions of the people and the failure of his hopes was such as he ought to have expected, and could not but have foreseen.

In the first instance, application was made to the battalion of volunteers. Of these whole companies refused to serve; and of the rest, so few offered their services, that the idea of engaging that battalion was abandoned altogether.† The regular militia were then^o called upon, and a scene ensued almost too ridiculous to be gravely related. Two regiments and a part of a third were paraded in one of the suburbs. The officers, commanding these regiments, addressed each his own corps, briefly mentioned the object for which they were assembled, and without any previous arrangement or understanding with the citizens generally; it was signified to them unexpectedly on the spot, that those who volunteered should *stand fast*, and those unwilling to serve fall back some paces in the rear; a manoeuvre both novel and awkward in the extreme. Unluckily, neither the addresses or the directions, with which they concluded, were distinctly heard or well understood in the line. The general impression was, that the volunteers, as is usual on such occasions, were directed to advance some paces in front. Accordingly not a man quitted his ground; and the officers, either mistaking, or affecting to mistake, this *standing fast* of the whole as an indicative of their unanimous alacrity to serve, incontinently conveyed

†The "militia association" mentioned in a former page, was now no longer in being. The spirit in which it was at first entered into soon flagged; it had been for a long time altogether neglected; and its existence was by this time almost forgotten.

to the governor the glad tidings, that the militia had *to a man* volunteered. Incredible as this must have appeared, Claiborne was too much delighted with the intelligence to admit a doubt of its truth. Immediately afterwards, in full uniform, and accompanied by several officers of his staff he repaired to the place of rendezvous; and riding in the centre of a hollow square that had been formed to receive him, he saluted the three regiments with great complacency, paid them a short compliment on their patriotism, in an audible voice, *accepted their services*, and retired.^{w-8}

Even to those who understood the English language, this unexpected condescension of his excellency was not at first perfectly intelligible; and their French and Spanish fellow-citizens were of course still more ignorant of the honor intended them: for the Governor spoke in English only. For the better

(w-8) The Orleans Battalion of Volunteers referred to in this paragraph mustered, according to Claiborne, about 180 men. *L. B.*, I, 41. From a roster of this organization printed in the *La. Ga.*, January 2, 1807, it seems there were twenty-eight commissioned officers, thirty-nine non-commissioned officers, and one hundred and seventy-seven privates. The author of the "Faithful Picture" states in another connection that the battalion consisted of three hundred men, well equipped and organized. This estimate is confirmed by "Centurio" in the *La. Ga.*, May 8, 1807. He says the Battalion contained all the militia with a semblance of organization. The military strength of the city at this time consisted of the first and second regiments, the above battalion, and a troop of horse. *L. B.*, III, 256. The captain of the last named unit was Ebenezer Bradish, against whom suit was instituted in the Superior Court of the Territory at the close of 1807 for illegal arrest by order of Wilkinson. *La. Ga.*, January 1, 1808. The captain of the Orleans Rangers was George T. Ross, who had been entrusted by Claiborne with letters to Casa Calvo in January, 1806. *L. B.*, III, 239-241. In May of the following year he resigned his commission in protest against the arbitrary conduct of the Governor, and sought consolation for his wounded feelings in the management of a wine and liquor shop at the corner of Conti and Chartres streets. *La. Ga.*, May 12, 1807. In testimony of their esteem for their captain, the officers and men tendered him a supper at Madame Fourage's, where the evening was spent in "hilar-

ity, the assembled company retiring at an early hour." He was presented with an address expressing the highest appreciation of his conduct. *Ibid.*

After December 9 Henry Hopkins, Colonel and Adjutant-General, was busy carrying out the orders of the commanding general, in bringing about the complete organization of the militia in the city in view of the impending danger from Burr and his advancing hosts. *La. Ga.*, January 2, 1807. On January 4, Claiborne wrote Wilkinson, "The Militia of the whole Territory are now organized." *L. B.*, IV, 81.

There was also another military unit not mentioned in the text,—the Gentilly Battalion of Militia Infantry. *Ibid.*, January 9, 1807.

One has only to consult the files of the old *Courier de la Louisiane* for the year 1814 in order to see that the question of the proper organization and discipline of the militia was destined to give Governor Claiborne many anxious moments. Dr. John Watkins declared in the course of a debate in the legislature in March, 1807, that the militia had never been properly organized, there being only from 150 to 300 troops in the city who were fit for actual service. *La. Ga.*, March 31, 1807. According to Daniel Clark the militia were totally neglected and unorganized; moreover their esprit de corps had been impaired by seeing a black corps preferred to them. *Ibid.*, February 13, 1807. Cf. However, Martin, 337, who speaks of an "efficient militia, well armed and disciplined", thus confirming a statement of the same tenor by the writer of the "Faithful Picture".

to be understood, at least by those whose personal services were required, an extra Gazette was quickly afterwards struck off, announcing the unanimous offer of the militia of the city and suburbs to serve on the frontiers. If report spoke truth the Governor would not be undeceived, until he had dispatched an express to the city of Washington, with the same agreeable information. An hour however, had scarcely passed, before the citizens from all quarters, swarmed around the government house to set his Excellency right as to the unlucky mistake which he had made. For some time he defended himself with great dexterity and courage, until overpowered by numbers, he was at last compelled to surrender his point. As many of the Gazettes as could be found were called in and suppressed; and as little as possible was afterwards said about the expedition. Fortunately, in a few days, the successful termination of Wilkinson's negotiation with the Spaniards was known at New Orleans; and there being no longer any ostensible necessity for the services of the militia, Claiborne was spared the mortification of a public *ecclaireissement* on the subject of their volunteering.^{w-9}

All apprehension of molestation from the Spaniards being thus removed, the inhabitants of New Orleans learned with pleasure, that General Wilkinson, to whom the country was apparently so much¹⁰ indebted, proposed to pass the winter in this city, with his lady.—

Accordingly, on his arrival, which took place about the 25th of November, he was received by society generally, with distinguished attention. The politeness of the citizens on this occasion, was afterwards used in the United States as evidence of the great popularity of the General at a subsequent period, when, in reality, such attentions were not paid to him; when the people, no longer assured even of internal peace, awaiting in silence the issue of the fearful events of the day, without any disposition to trouble with unseasonable compliment, a government of such equivocal character, as that which Wilkinson and Claiborne were establishing in the country.^{w-10}

(w-9) On October 17 Claiborne informed the Secretary of War that the officers and privates had made a "voluntary tender of services". *L. B.*, 1v, 31. Writing in the *La. Ga.* of May 8, 1807, "Centurio" affirmed that whole

companies to a man refused to aid General Wilkinson about to go to Natchitoches. Their attitude, however, on this occasion was not to be construed as savoring of a rebellious spirit.

The first symptoms of uneasiness at New Orleans, were occasioned by news from Natches, that the General on his return from the Sabine, had required of Mr. Meade, the Secretary and then acting Governor of the Mississippi territory, five hundred militia, to proceed to New Orleans. Mr. Meade desired to know the object for which the requisition was made. This the General refused to communicate. And Mr. Meade, either suspecting conduct thus mysterious, or offended at the General's want of confidence in him, would not furnish the men. It appeared extraordinary in the extreme, after an amicable adjustment of the difficulties on the frontier, that General Wilkinson, with a respectable body of regular troops already under his command, should require a reinforcement at Natches to proceed to New Orleans; where the militia were already numerous, and many were well armed and disciplined. As yet, the supposed designs of Col. Burr were unheard of at New Orleans; and conjecture was tortured in vain to discover the enemy. A rumor indeed, was at one time breathed, that an insurrection in the western country had either taken place, or was apprehended. But this was generally disbelieved. Many in the city were well acquainted with the people of the western states, the firmness of their attachment to the existing government, and devotion to the present administration in particular. Most of those persons had recently received letters in the usual course of established confidence with that country, and nothing of disaffection was hinted at. It was besides objected to the report, that if an attack were apprehended from above, the General, instead of weakening Natches by drawing off the militia, would rather have thrown additional

(w-10) General Wilkinson left Natchitoches November 7; he reached Natchez four days later, arriving in New Orleans November 25, confident of a conspiracy headed by Burr. The details of the plot are set forth in *L. B.*, 1v, 39. Wilkinson had received Burr's celebrated letter of July 29 on October 8, while he was at Natchitoches. A written version was sent Jefferson December 18. This letter was published in the *Moniteur de la Louisiane* of January 10, 1807. Cf. Adams, III, 311, etc. On November 18 Claiborne wrote Madison of the receipt of Jackson's letter of November 12, informing the Governor of the storm about to break in New Orleans. A let-

ter of similar import was received from Cowles Mead, of the Mississippi Territory. *L. B.*, 1v, 36-37; Adams, III, 317. On December 14 Mead wrote Claiborne warning him that "the wily General was not much better than Cataline". *L. B.*, 1v, 66. Nine days later he issued a proclamation from the town of Washington calling the attention of the citizens of his Territory to the "diabolical plot"; he called on all officers and citizens to aid in detecting such agents as might be implicated, and warned all officials who had failed to do so to take the statutory oaths within fifteen days. *La. Ga.*, January 2, 1807.

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force into that territory; and instead of descending with the whole of his army to New Orleans, where the river is a wide sheet of water with a low and flat country on both sides, that he would rather have availed himself of the many heights, narrows, inlands and other interesting points on the Mississippi above Natches, where a small party might, from advantage of position, successfully dispute the passage of a considerable force. The city could derive no security from abandonment of the country above it. On the contrary, the invader, after having possessed himself of the Mississippi territory, the fort and settlement of Baton Rouge, and both banks of the river from thence to New Orleans, and exhausted these rich and populous tracts of country of the resources in which they abound, would descend so powerfully reinforced, equipped and provided, that¹¹ there could be but little hope of protecting the city from a speedy participation in the general calamity. It was therefore confidently believed, for several days, (except by those immediately in the confidence of the General) that his measures were directed against some foreign foe; possibly against the Spaniards, of whose sincerity in pacific dispositions, few were as yet thoroughly convinced.^{w-11}

(w-11) On November 23 Mead wrote Claiborne as follows: "General Wilkinson's requisition for 500 militia confirms the suspicion in the minds of many that he is the soul of the conspiracy". *L. B.*, 1v, 83.

As to the available military strength with which to resist Burr, Claiborne informed Wilkinson on December 29 that there would be shortly available in the city nine hundred men completely armed. *Ibid.*, 1v, 73.

With the author's statement that Burr's supposed designs were unheard of in New Orleans may be compared a few passages from Henry Adams: "Immediately after October 1 the town of New Orleans rang with rumors of Burr's projects"; "from October 1 to November 25, 1806" the projects of Burr "were the exclusive subject of every conversation"; "for two months between September 27 and November 25, Burr's emissaries were busy in New Orleans"; and finally, "every prominent Frenchman in the Territory knew the contents of Burr's letter to Wilkinson as soon as Wilkinson could have known them". Adams, III, 296, 308, etc.

As a matter of fact the real purposes of Burr were not known to the citizens until the memorable meeting of December 9; nor is there any evidence to show that any of his so-called emissaries were guilty of circulating alarm-

ing reports as to the menace to the city. Cf. McCaleb, 295. The *La. Ga.* of January 8, 1807, referred to the vague and idle rumors in connection with Burr's supposed designs of attacking Mexico. "Centurio", writing in this issue declared, "That such an army was approaching was never believed or affected to be believed but by those who were interested in keeping up the alarm; by the great men, as all their greatness depended on it, and by their little ones, because they have among them some smug contracts for supplying the government with materials of defense".

It was not until December 16 that Claiborne issued a proclamation warning the citizens against countenancing Burr's *traitorous projects*, and setting forth at length the pains and penalties that would be incurred by any participating in, or in any way countenancing those who might be involved in designs against the government. *La. Ga.*, December 16, 1806; *Moniteur*, December 20, 1806.

With the firmness of the attachment of the people of the western states to the existing government at this time may be compared their attitude at the close of the previous century, as described in Dr. A. P. Whittaker's scholarly and interesting volume, *The Spanish-American Frontier, 1783-1795*.

What were they?

In the meantime, workmen made their appearance on some of the old and ill-contrived military works, which had long been suffered to fall into decay in the city of New Orleans. Contracts were entered into to supply a sufficiency of pickets to enclose the whole town towards the land, and various other articles used in fortifying; and works were undertaken which, according to the shortest possible calculation, could not have been completed in less than a year. One circumstance was remarkable in these contracts, that instead of being publicly offered as usual, to those who would engage on the best terms, they were entered into privately; and every transaction respecting them has been kept so studiously from the public eye, that it is doubtful whether the real contractors are yet certainly known. And it is very generally believed that the terms throughout have been unfavorable to the government.^{w-12}

The fortifications contemplated by General Wilkinson deserve attention. The Spanish works were erected when the buildings in the city covered but a small space of ground in the centre, remote on all sides from the fortifications. In the course of time, however, the buildings were extended in all directions, until they reached the works. Some lands above the city were then laid out in a suburb which was soon built; and in the rear of the town another suburb was gradually formed by buildings extending from the city towards the bay on St. John. A third suburb has also been within a few years established below the town. And so rapid has been the progress of improvement in these suburbs,^{w-13} that they may now be considered as containing more than a third of the population of the place generally. The works around the old city however, were suffered to remain, or

(w-12) "Around the Old Square—the Vieux Carré—as the original city was called, stretched a line of marshy, grass-covered mounds and fosses, all that remained of the fortifications erected by old Spanish governors, and long since fallen into ruin. Just beyond the tiny Fort St. Ferdinand, which was still maintained in tolerable repair (1803), lay the Carondelet basin, with the canal of that name stretching away through the tropical greenery towards Bayou St. John." Kendall, *History of New Orleans*, I, 61.

In Claiborne's day the city proper was spread out in the form of a parallelo-

gram extending, roughly speaking, some 1300 yards along the river front, with a depth of 700 yards or thereabouts. The only satisfactory manner in which a vivid impression may be obtained of the city's external development at this period is by an examination of the interesting collection of old maps in the Louisiana State Museum at the Cabildo. Some idea of the topography of the city and its environs may be obtained from the Plan of New Orleans compiled in 1798, and reproduced in Martin, 412. See also the maps in Waring and Cable, *History and Present Condition of New Orleans*, etc. (Wash., 1881).

(w-13) The suburbs referred to are St. John's Burgh; the Faubourg St. Mary, or the American quarter; and the Faubourg Marigny.

rather the ruins of those works. Though they had not been repaired for many years and were absolutely unserviceable, the parade of rusty guns on rotten carriages, and of sentinels at hingeless gates, was kept up by the Spaniards while they remained in the country. After the Americans took possession of New Orleans, in the winter of 1803-4, the season being unusually cold, and fire wood scarce, the poorer citizens began to demolish the palisades, bridges, gates and chev aux-de-frises on every side; and in a few nights dismantled the city of all its apparent military character. The American commissioners, Claiborne and Wilkinson, affected to be much displeased at the liberties which the people had taken with public property; though the former, in the true spirit of his political sect, in reality only smiled at the demolition, considering all such artificial modes of defense superfluous under a popular government. Across the ditches and glacis, paths and passages were now made, wherever convenience suggested them. The principal gates, or rather gate posts,¹² were pulled down, and the roads widened. After the incorporation of the city in the year 1805,^{w-14} nearly every distinction of city and suburb was unnoticed. And between the old city and the upper suburb a new street was opened, which filled up the fosse, and infringed upon the tottering ramparts of an intervening fort.

In this situation General Wilkinson found these works at the end of the last year, when he undertook the Herculean task of reinstating them in their former strength. By the Spaniards, these works, extending upwards of two miles in length on the east, west and north sides of the city, had been slowly erected, at a small expense to the king, by the labour of a numerous soldiery, and of convicts. The necessary timber also was then standing under the very walls of the city. To rebuild these works hastily, now required workmen to be hired in great numbers, and at an enormous expense, for the price of labour is very high at New Orleans. And the timber required could not be obtained nearer than West Florida; and had to be transported first from the woods to Lake Pontchartrain, then thirty or forty miles across the lake, and afterwards five or six miles by a

(w-14) The main provisions of the charter of 1805 are set forth in Kendall, *op. cit.*, 1, 70-71.

bayou^{w-15} and a canal, or by a bayou and a cartage of two miles, to the rear of the city.^{w-16}

This great work however was commenced. From the fort which is already mentioned as intervening between the old city and the upper suburb, a ditch was cut to the river across the principal road, and a rampart thrown up. The new street also which had cut off a part of the fort was now shut up, and the rampart, ditch, &c. were replaced in their former situation. And thus one third of the city became as effectually barricaded out from the rest, as if the enemy were already in possession of the suburb, and its total demolition had been determined on.^{w-17}

On the repairs of this fort and the erection of the new works contiguous to it, the principal labour was bestowed, though there was scarcely a line in which the fire of that fort could be directed without destruction to a valuable part of the town. It was evident indeed, from the manner in which the city is now built around it, that this fort was incapable of affording the place any protection against an external enemy. And its refitment on this occasion, therefore naturally excited in the public mind an odious suspicion, that the General's real and immediate object was rather to command and overawe the city itself, though with what eventual views few dared to hazard a conjecture.

But however the prodigious plans of the General were calculated to inspire the citizens with apprehension, they fortunately had one source of consolation in the miserable and puerile manner in which these plans were carried into execution. The new ditches were so narrow that an active stripling could leap the widest of them with ease; and the walls or the parapets, as if despising the protection of such ditches, took advantage of every shower of rain to fill them up in several places. Fortunately for the purse of the nation it has not been found necessary to persist in these works. How much money has been already expended on these Shandean^{w-18} experiments of the General is as yet

(w-15) The Bayou referred to is the old Bayou St. John.

(w-16) According to Dr. Watkins a large number of negroes were hired at enormous expense to work on the fortifications, large contracts being let for lumber and pickets; one of the principal streets was blocked up. *La. Ga.*, March 31, 1807. James L. Donaldson asserted that four hundred men were

employed to work on the fortifications. *Ibid.*, March 20, 1807. On January 6th, Claiborne asked the farmers between Terre aux Boeufs and the first church of the city for one-tenth of their negroes to work on the fortifications. *L. B.* IV, 84.

(w-17) The fort alluded to was probably Fort Burgundy.

(w-18) "Shandean" is evidently an allusion to Sterne's well-known novel.

unknown; but it is supposed that they have cost the country some hundreds of thousands of dollars.¹³

But to return to the General's arrival at New Orleans. For some time the citizens were kept, though it is difficult to understand why, completely in the dark as to the object of all these military preparations. Sailors however at length were wanted for the gun boats and other United States' vessels then fitting out, and it became necessary to apply to the merchants for assistance. On the 9th of December last, accordingly a meeting of the merchants and some of the other principal inhabitants was called at the government house, where the Governor and General attended to receive them. Here the citizens were for the first time informed of the dangers to which the country was said to be exposed from the designs and supposed armaments of Col. Burr. The speeches of the Governor and General on the occasion, were prepared with art, and delivered with some address. That of the latter in particular had not a little merit. With the exception of an affected pathos, and that disposition to excite verbiage which so peculiarly distinguishes his literary compositions; his address was calculated ingeniously enough to produce the effect which he had in view, with that class of citizens of which his auditory was almost entirely composed. These speeches were never accurately given in any of the public prints. The substance of them is as follows:^{w-19}

The Governor first unfolded the object of the General's preparations, namely, to defend the city against a numerous and powerful party, headed by "some of the first characters in the Union," which was shortly to descend the river from the western states, with hostile views against the country. He stated the difficulty of manning the armed vessels of the United States then

(w-19) As has been indicated General Wilkinson arrived in New Orleans November 25.

The naval force consisted of two bomb-ketches,—the "Aetna" and the "Vesuvius"—gun-boats Nos. 13 and 14, the U. S. schooner "Revenge", and gun-
barge No. 2. *L. B.*, iv, 4.

An account of the meeting of December 9 is given in the *La. Ga.* of that date. It was attended by almost all the merchants of the city. Wilkinson is said to have been dissatisfied with the calling of the meeting, preferring to conduct the whole business in his own way. *Ibid.*, December 12, 1806. That he chafed under his lack of power is evident from his letters of December

6 and 15 to Claiborne in which he expressed his impatience at the latter's hesitation to adopt drastic measures. *L. B.*, iv, 46, 49, 59-60. Claiborne in his reply pointed out that the suspension of the writ of habeas corpus and the declaring of martial law were beyond his control. *Ibid.*, iv, 64. Cf. Gayarré, III, 163 for Wilkinson's insolent demand upon Claiborne for him virtually to abdicate his authority. For Wilkinson's supreme contempt for the Governor, see Adams, III, 321-322. On the day following the meeting of the merchants, Wilkinson with a grim sense of humor wrote Clarke of the "interesting scenes which agitate our darling city and poor devoted Louisiana". McCaleb, 212, 213.

Let me see it

Dr. Dec. 17/6/57
at Camp. 212/70

in that port, and concluded by expressing his confidence in the merchants, that they would adopt the best and most immediate measures to enable the officers of the navy to procure the necessary hands.

General Wilkinson spoke more at length. He commenced with a tedious detail of the manner in which he had been apprized of the impending danger, and of his own address and ingenuity in penetrating the mysteries of the conspiracy. He mentioned Col. Burr as the companion of his youth, his brother in arms, and bosom friend through life; and concluded with denouncing him as the "arch traitor" who headed the rebellious expedition. He spoke of the expected co-operation of the British navy with Col. Burr, and the ultimate destination of the expedition to Mexico; but not, as he emphatically added, until these adventurers had *plundered the banks* at New Orleans; *seized the shipping*, and in short, *helped themselves to every thing of which an army of seven thousand men could stand in need of!*

These speeches produced the effect required. The last mentioned sentence of the General seized instantaneously on the whole nervous system of his audience and produced a sudden sensation which beggars all description. The persons present were principally merchants; their banks, their ships, even the very goods in their warehouses, all menaced with the merciless requisitions of seven thousand hardy and half naked adventurers! This was a shock for which they were wholly unprepared, and pregnant with everything horrible to a¹⁴ commercial imagination. There was no time for deliberation; no interval allowed for calm discussion of the probable truth or falsehood of the alarming information. Suddenly petrified with astonishment and dread their intellect was struck motionless. With beating hearts and pallid countenances they only demanded to know how they could best contribute to strengthen the arm of government at the present crisis, against an expedition so diabolically conceived. At this favorable moment it was proposed that the ships in port should be detained and the crews discharged, that they might enter on board of the United States' vessels. The merchants instantly agreed, and an embargo was laid. And as if it was impossible for them to do too much in support of the government at such a perilous season, they, on withdrawing from the government house opened a subscription at the exchange, for extra bounty and clothing for such seamen as should go on board of

the United States' vessels; and before night a large sum was subscribed.^{w-20}

Of the embargo on the shipping, it has been said, that it was continued as it begun, only in the acquiescence of the merchants individually, and not by the authority of government; that any one merchant might, by incurring merely the penalties of public odium, have sent as many vessels as he pleased to sea without opposition from the government. But this is untrue. For it was then well understood, that clearances could not be obtained at the custom-house, during the continuance of the embargo, without the special permission of the territorial government; and that even after the collector no longer felt himself authorized to refuse them, no outward bound vessel was suffered to pass the fort on the river without a written permission from the Governor or General.^{†w-21}

It was of course some time before many recovered from the shock which they received at the government house on the 9th of December. Some however found leisure before long, to collect their scattered senses, and endeavored to take a dispassionate view of the perils to which it was said the country was exposed, and the plans adopted for its protection. The General's attempt to disarm the Mississippi territory, by drawing off the bulk of its militia, and refusing to apprise the acting Governor there of the dangers to which his government was more immediately exposed than that at New Orleans, recurred with force on the minds of all who dared to reflect. If Burr were really descending the river with seven thousand men, it was asked, how could Wilkinson expect to oppose him at so defenceless a place as New Orleans, with scarcely a seventh of that force, including the

(w-20) Several thousand dollars were subscribed by the merchants for the purpose of equipping sailors to man the fleet. *L. B.*, 1v, 52. Objection was raised by the subscribers to the sailors enlisting for six months, a period of two months being deemed sufficient. *Ibid.*, 1v, 57, 63. The embargo was rescinded December 31.

James L. Donaldson later deposed that when he left the city the day after the embargo was resolved upon, a state of great alarm prevailed. Similarly Lieutenant W. Wilson testified that at the time of his departure on December 15, the greatest alarm was felt by the citizens. *La. Ga.*, March 20, 1807.

†The sloop *Two Friends*, Captain Hubbard, which sailed from New Orleans about the 30th of December, had to obtain a passport from the Governor. Another vessel, the name of which is now forgotten, was about the same time stopped at fort St. Phillip, and sent back to town, not being furnished with that necessary document.

(w-21) At the beginning of the new year a notice was read in the Coffee House that served as centre for the posting of information relative to military affairs, warning all merchants and ship-

owners to hold their vessels in readiness to haul off into the river, if found necessary, on the shortest notice. *Ibid.*, January 2, 1807.

militia? And if Burr's object were to seize the specie in the banks, the shipping and other property, how were they to be protected by an embargo? Or by dismantling and unmanning the very ships, by means of which alone any part of the property could¹⁶ be preserved? To obviate in some measure this last objection, it was boldly suggested that the whole of the specie in the banks ought to be immediately embarked on board some armed vessel under the orders of the General, ready to put to sea on the arrival of the expedition from above. Whether this ingenious proposition originated at head quarters is not known; but from whatever source derived, or with whatever views suggested, it contributed much to excite some serious suspicions of the measures pursued by the government, and confirmed many in the belief that they were founded in weakness or in wickedness, if not in both. In a few days the embargo was much complained of, as a measure into which the merchants had been unfairly surprised; and many struck their names with indignation from the subscription list of extra bounty and clothing for the sailors. The reality of the danger was every where questioned; and nearly all began to turn with disgust from the pompous display of over-acted patriotism and needless alarm, by which the officers of the government were endeavoring to impose on public credulity.^{w-22}

Among the particulars detailed in the General's communications to the merchants at the government house, it was positively stated, that an army of seven thousand men had been actually raised, and were then in motion; and that the advance guard, consisting of two thousand men, would certainly arrive at Natchez in eleven days. All who were capable of a moment's reflection, refused credit to the intelligence. Between New Orleans and the western country generally, there passed continual intercourse of trade and correspondence. And it was then the season of the year when arrivals from that country were beginning to occur almost daily. It was therefore considered as impossible that so large an army could have been even raised there, and much less on its march along the high road of all the commerce of the western country, and that nobody in New

(w-22) In the course of the debate in the legislature in March touching the arbitrary acts of Claiborne and Wilkinson, the opponents of the latter criticised him for withdrawing the garrisons from Fort Adams and from Natchez to New Orleans. *Ibid.*, March 20, 1807. Not only on this occasion was the em-

bargo attacked as illegal, but it was declared that its effect was severely felt in the injury done to private credit. Real estate, it was said, had suffered a depreciation of twenty-five per cent. Mercantile business was much embarrassed, and a general stagnation of industry and trade was feared. *Ibid.*

Orleans should hear of it but General Wilkinson. Could two thousand men, it was asked, have reached within eleven days march of Natchez, in silence and unseen, preceded by no information of their approach but that which the General received, no precursive reports? That the General should hazard so palpable an improbability on his own credit alone, could not but excite an unusual degree of astonishment in all who believe even in his cunning, were not that astonishment lost in another miracle, that any man of ordinary understanding could be so much the dupe of his fears, as to give credit to the tale.^{w-23}

Nothing short of information the most particular and unequivocal could authorize any man to spread so serious alarm through the country; and that General Wilkinson had no such information, is evident, as it has since appeared that the facts related never had even a shadow of existence, except in the fables of the General himself. By subsequent disclosures of his own indeed, it has long since been reduced to a moral certainty, that he could not at the time have believed the story himself. He by his own statements on oath since that time, acknowledges the receipt of Burr's famous letter in cypher^{w-24} by the hands of Mr. Samuel Swartwout, at Nachitoches "early in October." From this letter and his conversation with Swartwout at that time, he pretends to have learned the nature and views of the expedition in its full extent. If on that occasion the General had been faithful as a citizen or vigilant as a soldier, is it not reasonable to believe at least that instructions were given to the military posts under his command on the leading water-course, if the propriety did not suggest itself of using other means of information also, to obtain the earliest intelligence of the actual movements of an expedition so important, if not also pregnant with danger to his country? Is it to be believed that he remained two months incurious as to the physical existence of that expedition; that with all the means of positive information in his power, he contented himself with chance news and conversations with persons who knew as little of the actual situation of Colonel Burr as he did himself; and that he himself was really imposed

(w-23) For Wilkinson's reasons for his belief that a conspiracy existed, see *L. B.*, IV, 37-39.

(w-24) Burr's cipher letter is translated in *L. B.*, IV, 150-152; McCaleb, 74-75. As Channing observes what the former Vice-President communicated to Wilkinson must remain a matter of

conjecture, for our only knowledge of what the letter contained is derived from Wilkinson's own version. *Op. cit.*, IV, 341.

on by rumor, which by the way, noboddy had heard but himself, on the 9th of December, when he addressed the merchants? If he had really received any credible intelligence from the upper country it must have told him that there were no arms there; he therefore either deceived the merchants by telling them that he had certain accounts from that country, when in truth he had none, or having had intelligence from that quarter, misrepresented it most grossly.

It remains then to be asked, on what authority did General Wilkinson make this communication? On nothing more than this, that Colonel Burr, in a letter written early in July, and two of his friends who had not seen him since that time, told the General among other things, that Col. Burr *intended* to raise an army, and *intended* to be with the advance guard at Natches by a certain time. But that these intentions, if ever they were conceived, had not been carried into effect, must have been as well known to General Wilkinson on the 9th December as it is now. How contemptible therefore must he appear, thus publicly detected in a wilful falsehood, calculated to throw not only the territory of Orleans, but the union into a ruinous state of terror and confusion; a falsehood fabricated with no other view than that of preparing the public mind for the outrages which he meditated against society and its laws; and exhibiting to the nation a violent proof of his affected incorruptibility and overweening zeal in the service of his country. He believed, perhaps, that should he attempt his lawless career at New Orleans, without due precaution, he might there find a sufficiency of public spirit as well as of force to resist him. He determined therefore to commence with paralising the one, and if possible getting the other into his own hands; and for this purpose he suddenly introduced the pretended danger in the most gigantic form possible; and least the citizens should take time even to breathe, he announced the monster as just at hand, ready to devour them. In this scandalous imposition on the public he was but too successful at first. Society was panic struck at the intelligence; and reason and reflection were for the moment drowned in the pomp of military parade, or hurried away in the bustle of warlike preparation.^{w-25}

(w-25) As Adams observes, III, 323, Wilkinson's military measures would seem to have been directed against the city rather than against Burr. At his instance the city council on January

7, 1807, enacted stringent orders touching strangers in New Orleans. *Moniteur*, January 10, 1807.

"Curtius" attacking Wilkinson in the *Philadelphia Gazette* declared the lat-

ter's conduct in New Orleans was due to his desire to disguise his own character by playing the role of patriot. *La. Ga.*, September 2, 1808. McCaleb comes to pretty much the same conclusion, affirming that he was playing a "master rôle of imposture". Adams is in full accord with McCaleb as to Wilkinson's duplicity. These two authors,

however, differ as to Burr's supposed designs, the former emphasizes his intention of dissolving the Union, the latter his threatened attack on the Spanish dominions. Channing, *op. cit.*, iv, 338, note, describes Burr's mind about this time as "chaotic and devoid of the patriotic impulse", an eminently safe conclusion!

The public mind having been thus artfully wrought up to the necessary pitch of agitation and alarm, the General commenced his¹⁷ operations. On the evening of Sunday, the 14th of December, Doctor Erick Bollman was arrested by a military guard in the public streets and afterwards conducted to some secret place of confinement. This was done without even the picture of lawful process, or by any other authority than that of General Wilkinson; though the officer had the weakness to tell Bollman that he arrested him "in the name of the United States." As if in mockery of the laws, that officer was without doubt instructed, while his sword was drawn against one of the vital principles of the constitution, to profane the sacred name of the nation by stamping it in the crime.^{w-26}

On the evening of the 15th, Mr. James Alexander, a counsellor at law, applied in behalf of Bollman to Judge Sprigg, for a writ of habeas corpus. This is an important writ, but one the nature of which is well understood. It is particularly well known that delay *will* often and *may* always defeat. In this writ also there is this peculiar excellence, that even when it issues irregularly, improperly or without cause, it does no mischief; it deprives no man of liberty, and puts none to inconvenience but those who apply for it. Hence it is that this writ ought never to be refused or even delayed, not only when a regular affidavit, but when even a credible suggestion supports the application for it. Judge Sprigg however, was unwilling to act alone, and refused the writ until he could consult his colleague Judge Matthews; and as Judge Matthews could not be found that evening, the application was laid over till ten o'clock the next morning, to be then renewed in open court. And during this delay, Bollman, who had been

(w-26) Erick Bollman was a German who had acquired prominence by reason of his attempt to rescue Lafayette from the prison of Olmutz. He had arrived by sea in New Orleans as early as September 27, 1806, with a duplicate of Burr's letter of July 29 to Wilkinson. The latter had a "confidential interview" with Bollman on November 30, but did

not disclose to him his intention of opposing Burr until December 5. On December 25 Claiborne wrote Wilkinson that the arrest of Bollman was justifiable, but that the prisoner should have been surrendered when claimed by the civil authorities. *L. B.*, iv, 69. Cf. Claiborne to Mead. January 2, 1807. *Ibid.*, IV, 76.

shipped on board of a vessel,[‡] was actually descending the river in custody, to be removed beyond the jurisdiction of the court.^{w-27}

Next morning Mr. Alexander attended the court and renewed his application of the preceding evening. On this occasion he was joined by Mr. Edward Livingston, a counsellor also, whom Mr. Alexander had requested to assist him. After a short argument the writ issued; that writ which has seldom issued in vain within the territories of the American Union, until it was addressed to General Wilkinson; that stern precept to which even in nations less free, the yet unsheathed sword of the conqueror resigns its captive without a pause; that august mandate of supreme law, to which even the crown of the British monarch, in all the pride of despotic insolence with which that crown has been of late so much reproached, has ever bowed in submission; that long venerated writ to which in a free country, oppression never yet dared to refuse its victim, until the General commanding the army of the United States first gave a signal example of disobedience and defiance.^{w-28}

The General's return to that writ has been already published, and without doubt read throughout the United States with alarm. No apology however is necessary for inserting it here again. It is in itself a volume of disgusting self importance, ignorance, falsehood, contempt of the law and its ministers, insolence, vanity and bombast, such as perhaps never before was, nor ever again can be comprised in so limited a compass. In this

[‡]The schooner *Amelia*, Captain Brooks.

(w-27) William Sprigg was the senior judge of the Superior Court of the Territory, appointed with Mathews in May, 1806. He retired two years later. Another member was John B. Prevost, of New York, who retired in 1807. He was Burr's step-son. For the character and career of Mathews, who became the president or presiding judge in 1807, see the interesting accounts in the *Qy.*, 1v-April, 1921. Claiborne described him as a "man of sence". For the history of

the Superior Court, *Qy.*, IV—January, 1921.

According to "Alexander's Appeal", published in the *Federal Gazette*, and reprinted in the *La. Ga.*, April 17, 1807, the Court applied to James Brown, secretary of the Territory, for his opinion before signing the writ. Brown, according to Adams (III, 219), was another of "Burr's creatures." Wilkinson's testimony at the Burr trial incriminating Bollman is reprinted in the *La. Ga.*, February 26, 1808.

(w-28) Livingston declared his acquaintance with Alexander was merely a casual one, and that his entry into the case was solely due to his desire to befriend that attorney. He believed however that there was sufficient evidence of Bollman's guilt to warrant his commitment. *La. Ga.*, December 31, 1806. Wilkinson testified at Burr's

trial that "E. Livingston called and offered to introduce Bollman—asked what Burr and I intended to bestow on him when we got to Mexico—I replied, 'Chancellor of the Exchequer', which excited a 'sort of hysterical laugh', and bowing he departed". *Ibid*, February 26, 1808.

short and sententious essay of the military genius of that country it is but too easy to read the meditated destiny of its liberties. When the constitution is entombed, this return will serve for the inscription, recording at once the best evidence and most accurate date of its mortality.^{w-29}

On Thursday, the 18th of December, about noon, the superior court of the territory being then in session, General Wilkinson, who consented to attend that day to deliver in his return in person to the writ of habeas corpus in the case of Bollman, entered the court room in full uniform with his suite. The General and the officers of his family were all dressed as on a field day; with their side arms, *a la mode de Paris*, in metal scabbards rattling along the floor, and all the other usual insignia of military pomp. Even the spurs were not forgotten. The ordinary business of the day was quickly set aside to receive communications of this distinguished visitor. He commenced with a speech of nearly the same nature and import as that which he before delivered at the government house; his decyphered letter, *parts* of affidavits that had been privately taken, and *extracts* from other documents, to which he now added what he conceived to be evidence of Bollman's guilt, and then proceeded to read the return in the following memorable words:

"The undersigned, *commanding the army of the United States*, takes on himself all RESPONSIBILITY for the arrest of Erick Bollman, on a charge of *misprison* of treason *against the government and laws* of the United States, and has adopted measures for his safe delivery to the *executive* of the United States. It was after several *conversations* which the Governor and two of the Judges of this territory, that the undersigned has hazarded this step for the national safety, menaced to its base by a lawless band of traitors, associated under Aaron Burr, whose accomplices are extended from New York to this city. No man holds in *higher reverence* the civil institutions of his country, than the undersigned; and it is to maintain and *perpetuate the holy attributes* of the constitution *against* the uplifted arm of violence, that he had interposed the force of arms, in a moment of extreme peril, to *seize upon* Bollman; *as he will upon all others*,

(w-29) About one o'clock on December 16 Alexander wrote Wilkinson that no return had been made to the writ. He announced to the court that he would move for a writ of attachment. General Wilkinson informed the court by letter

that no return would be forth-coming until the next day. *La. Ga.*, April 17, 1807. Cf. *Ibid.*, December 19, 1806, where it is stated the return of the writ was on the 17th of December.

without regard to standing or station, against whom satisfactory proof may arise of a participation in the lawless combination."[‡]

This being signed by the General and handed to the bench to be recorded, he proceeded to declare that the traitors in the city of New Orleans, were numerous; even among the counsellors of that court there were two, namely, the two gentlemen who had applied for the writ in favor of Bollman. These he denounced; and Mr. Alexander not being in court, the General desired that he might be sent for, as he had a charge of treason to exhibit against him. Mr. Livingston, who was present, urged strenuously that the General should proceed on the spot to substantiate his accusation. In an animated and forcible address to the court he entreated that the General should not leave the bar until he produced the evidence at least of his own oath in support of the charge. But the General was not prepared to make any affidavit. The Judges offered to put it in form for him, to write it for him, and invited him to take a seat on the bench, where they might more conveniently receive his instructions. But the General declined all their polite offers. And the court having expressed their regrets that so much of "his Excellency's"[‡] valuable time had, at such a momentous period, been divested from his military vocations, they apologized for the trouble which the writ had given him, and promised, in order to prevent "his Excellency's" being again put to so much inconvenience, that one of the Judges would wait upon him at his quarters, to receive

[‡]This is the return at first handed in, but not exactly as it now stands on the record. After the General had left the court, or possibly the next day, the Judges suggested to Mr. Duncan, the General's counsel, the propriety of amending the return, so as to give it some appearance of regularity, by the insertion of an averment that *at the time of the service of the writ the prisoner was not in the possession or power of the persons addressed in the writ*. Something of the kind was accordingly added; and the menace with which the first return concluded, and which could not be otherwise than accordingly offensive to the court, was probably left out in the amended return. The General indeed does not explicitly say in the amended return, what the law requires, that *at the time of the service of the writ the prisoner was not in his possession or power*; but in bold defiance of both law and truth, he stated an unnecessary falsehood, that *on the day of the date of the return*, the 17th of December, the prisoner was not in his *possession or power*; when in fact, the vessel in which Bollman was confined, was then actually detained by the General's orders, about twenty-five miles below the town awaiting his final instructions to sail; which he did not send down, as will hereafter appear, until the 19th, he having by that time ascertained that the court would not give him any further trouble.

[‡]General Wilkinson was the Governor of Upper Louisiana.

his affidavits and such other communications as he might wish to make to the judiciary of the territory.^{w-30}

That the General had no evidence against either Livingston or Alexander is now clear, or it would long since have made its appearance in public, having been so often loudly called for, but in vain by these gentlemen themselves. That his sole motive for the accusation must have been a vindictive one, was at the time equally clear; and has been since put out of doubt, by the similarity of conduct pursued against all those who afterward dared in like manner to offend against mock-majesty of lawless usurpation, by any effort to enforce the laws of the country.

(w-30) Wilkinson's reasons for believing in the guilt of Alexander are set forth in *L. B.*, iv, 152-155. With this should be compared "Alexander's Appeal", *La. Ga.*, April 17, 1807. In January, 1807, at Washington, D. C., Jones, the U. S. Attorney in the Circuit Court of the District read two depositions of Wilkinson accusing Bollman first of treasonable intents: the accused was charged with being guilty of infamous and abortive attempts against the honor and fidelity of the deponent, and with being an active and an acknowledged agent in Burr's Plot. Secondly, it was alleged that the prisoner had been an active confederate of those who had actually 'levied war'. *Ibid.*, March 20, 1807. On December 16 Wilkinson excitedly wrote Claiborne: "Alexander must be taken up—indeed he must—he said publicly at the Coffee House the other night, that if Burr was a traitor I was one also". *L. B.*, IV, 62.

Wilkinson's attack upon Livingston in open court consisted in part of an affidavit of Dr. W. Rodgers to the effect that one Keene, of New Orleans, had told Rodgers in February or March previous that a number of citizens had agreed to undertake an expedition against Mexico, and upon being urged to declare who they were, had replied, "there's Livingston". On December 26 Rodgers wrote Livingston to the effect that he might have included names in his affidavit not mentioned by the aforesaid Keene. On this same date Livingston wrote Judge Hall of the Superior Court urging him to summon his accuser to lay his charges against the accused before the court. "I demand, intreat the Court that General Wilkinson should make known the nature of the charges against me". When Livingston called upon Wilkinson at head-quarters, the latter refused to see him. This was attributed by Livingston to the fact that he had befriended Alexander, and to

Bollman having received from Burr, in Philadelphia, on July 26, 1806, an order upon Livingston for the sum of \$1500. On the day that Wilkinson arrived in New Orleans, Livingston says that "I informed him that Dr. Bollman had brought me an order for money from Colonel Burr". According to Livingston's account, this transaction constituted, in the eyes of Wilkinson, his chief offense. He detailed to the court the nature and extent of his financial dealings with Burr, since his departure from New York in December, 1803. He states, among other things, that at this time he was indebted to the federal government between thirty and forty thousand dollars. His biographer states the amount was \$43,666.21. Dunham and Davis of New York held a claim against Livingston, the judgment upon which was assigned to Burr. After his arrival in New Orleans, Livingston sold a plantation to a man by the name of Davis, taking as security a mortgage for \$12,000 payable in one and two years. The buyer agreed to honor Bollman's order for the \$1500, being credited for that sum upon his debt to Livingston. Cf. Charles H. Hunt, *Life of Edward Livingston*, 104, 130, 133.

Livingston represented to the Court that his sense of justice felt outraged at Wilkinson's refusal to prefer formal charges against him. He denounced in severe terms the exercise of dictatorial power by his accuser. "If the civil authority had been applied to, justice would have been done, the very shadow of injustice might have been avoided." On December 26 Livingston made an affidavit before Judge Hall to the effect that the schemes of Burr were known to him only through the papers, General Wilkinson, and public report. The *La. Ga.* of December 30, 1806, contains Livingston's Address to the Public,—a document nearly seven columns in length, in which the above facts are set forth.

But this extraordinary return of the General's is worthy of something more than mere insertion. It first sets forth that he arrested Bollman on a charge of "misprison of treason." Who exhibited²⁰ the charge? The General himself thus declaring himself at once the accuser, the magistrate deciding on the merits of the accusation, and the ministerial officer making the arrest. And least the reader should mistake the character in which he assumed these several powers, his military rank is announced at the head of the return, giving the world fair notice that he had acted in the threefold capacity of prosecutor, judge and jailor, in virtue of his being the officer "commanding the army of the United States." What idea the General had of the technical expression "misprison of treason," is not easy to conjecture. But this is certain, that he could not have understood it, or he would not have used it in that place; particularly as it amounts to an acknowledgment that the highest crime of which he conceived the prisoner to be guilty was already well known to the laws; and instead of being one which calls for any unusual modes of prevention or punishment, that it was constitutionally provided for, as a bailable offence; and for which no man consequently can be justly imprisoned or otherwise punished, until after trial or conviction. "Treason against the government" is perfect nonsense. And as to "treason against the laws," few perhaps are qualified to stand a competition with the General himself for celebrity in the commission of that offence. He then informs the court that he had adopted measures for the safe delivery of his prisoner, not to the ministerial officer of that or any other court, nor to any of those judicial authorities which alone can or ought to judge of the character or grade of crimes, or exercise a legal jurisdiction over the offender, but to "the executive of the United States," who could not receive the prisoner, except through the hands of the judiciary, without a gross and dangerous violation of the first principles of the constitution. He next hints that his measures had received the sanction of the Governor and of two of the Judges and thus insinuates, as respects the Judges, an impudent falsehood, which the Judges have contradicted. The lie however is only insinuated. His words taken strictly say no more than that, before he arrested Bollman, he had "several conversations" with the Governor and Judges; but, in his wondrous cunning, avoids committing himself as to the subject or express result of those conversations. With two of the Judges, Judge Hall and Judge Matthews, he had *one* conversation, and but one

that has been yet heard of, on the subject of military arrests. The substance of that conversation is, after ascertaining that he had no evidence against Bollman, on which the Judges would commit him, or even hold him to bail, the General boldly told them that he would make the arrest himself on his own responsibility. On leaving the room, he in a jocular manner asked if they did not think him right, or something to that effect: but they refused to sanction his intentions even in jest. "Well," said he, facetiously, "you won't hang me for it," to which Judge Matthews answered, in the same strain, "it would not amount to a hanging matter." Thus ended the conversation with the Judges. Not satisfied with the allusion in the return, the General had also the courage to urge the same point in his speech to the court, and thus compelled Judge Matthews, who was then on the bench to declare²¹ publicly, that the statement was untrue. This produced an explanation in which the above conversation was mentioned; and to the great amusement of all present, it appeared that the jocular chat in which that conversation concluded, was the only ground which the General had for his endeavour to implicate the Judges seriously in the guilt of his own illegal proceedings.^{w-31}

"The civil institutions of his country" are of course much indebted to General Wilkinson, for his politeness in saying, that he 'holds' them in high "reverence." He has served them however as certain savages are said to serve their idol; those whose devotions consists in torturing the God which they worship. How the General discovered that the constitution had "holy attributes," is an inquiry which in all probability will long be made in vain. The absurdity of this inflated expression is exceedingly offensive; for nonsense may be indecent and even prophane.

As a soldier perhaps, the General may set up a claim to exemption from mere criticism. But as he is one of those soldiers who wields the pen perhaps as dexterously as the sword, and in his style generally aims at something more than plain perspicuity, his pretensions give the critic lawful jurisdiction over his writings. No further apology therefore is necessary for the remark, that to "*perpetuate* the holy attributes of the constitution *against* the uplifted arm of *violence*" is an expression that presents to the mind only a confusion of stately words forced together the reader can scarcely conceive with what intention. To *seize upon* Bollman is happily expressed. To *take* or *arrest*

(w-31) The conversation alluded to in this paragraph took place about December 13. Mathews was one of those suspected by Wilkinson. *La. Ga.*, February 26, 1808.

might suit any ordinary occurrence of civil life; but under a government of bayonets, the term *seize* is aptly applied. It suggests to the mind the idea of an arrest, not unlike that employed by a tiger springing on his prey, or a kite pouncing on its quarry. The threat with which the return concluded, and the professed disregard of the author for "standing or station," afford a melancholy proof of the abject degree to which the judiciary of the country must have been humbled. An offender standing at the bar of justice, avowed a gross violation of the law of the personal liberty of a fellow citizen, and without reprimand, or even interruption, was suffered to threaten an unlimited repetition of the same offence, whatever might be "the standing or station" of those who should incur his displeasure; evidently hinting that even the judges of the court were not themselves secure.

On the 15th of December, it was reported in the city, that there were two other prisoners on board of the United States' vessels in the river, Mr. Swartout and Peter V. Ogden, who had been arrested in the vicinity of Fort Adams, in the Mississippi territory, by order of captain John Shaw, of the United States' navy, who in this instance acted in obedience to an order to that effect from General Wilkinson. These gentlemen, at the time of their arrest, were on board of one of the gun boats on a visit, and were brought down to New Orleans, by an officer's guard. This arrest occasioned much surprise, and not a little curiosity. These were young men of the most respectable families in America; and it was but a short time since²² Swartwout had been one of General Wilkinson's family at the Sabine, and treated as a distinguished favorite. This had been observed by the whole army and all the citizens in camp; the General and Swartwout were inseparable. After such proofs of familiarity and favoritism, Swartwout's arrest could not but excite in the public mind some extraordinary sensations. It was not for some time known in what vessel or vessels these prisoners were confined. But on the evening of the 16th, it was ascertained that Ogden was on board of the bomb ketch Aetna, then lying in the stream opposite the town. The necessary affidavit being made, Mr. Lewis Kerr, a counsellor at law, applied to Judge Workman to allow a writ of habeas corpus in favor of Ogden. The writ was immediately granted, and as soon as possible afterward served. And the officers of the navy being not then unprepared for open hostilities with the civil authority, and not then legitimately under the command of Wilkinson, Ogden was the next day taken by Lieu-

tenant Jones of the navy, to the Judge's chambers, and there dismissed; no proof of any offence having been offered against the prisoner, or any lawful authority shewn for his detention.^{w-32}

How far the Governor approved of these proceedings on the part of the General was unknown; he however took no avowed measures in opposition to them. He indeed acknowledged, that he had assented to Bollman's arrest; but it was said that he at first denied all participation in that of Swartwout and Ogden. He for some time played casuist on the occasion; endeavouring to shelter himself from the responsibility of the latter arrests by disclaiming all knowledge of them, as they never had been officially communicated to him. It is however well known, and can be proved if necessary, that he received from Swartwout, while in confinement, a letter claiming the protection of the civil authority; of which letter the governor never took any notice.^{z†}

(w-32) Samuel Swartwout was a younger brother of Robert, a New York family. He had been lately marshal of the district of New York. By Yrujo he was described as the "intimate friend" of Burr. It was he who had confided to Wilkinson at Natchitoches, October 8, 1806, a packet containing Burr's well-known letter. See Adams, III, ch. 10, for his relations with Burr. Wilkinson's reasons for his belief in his guilt and that of Ogden are set forth in *L. B.*, iv, 152, 155; *La. Ga.*, November 10, 1807. For the deposition of Colonel Cushing relative to Swartwout and Ogden, *Ibid.*, November 13, 1807. Wilkinson maintained Swartwout was a stranger to him. *L. B.*, iv, 149.

Peter V. Ogden was a son of General Mathias Ogden, of Revolutionary fame, and a nephew of General Jonathan Dayton, of New Jersey. He was one of Burr's chief lieutenants, and visited New Orleans in the summer of 1803. According to Adams (III, 219), Dayton shared and perhaps suggested Burr's "projects". Ogden arrived in New Orleans about October 1, bringing despatches from Burr, *Ibid.*, III, 305. After his arrest he is said to have been recognized from the shore on the vessel where he was detained by reason of

his unusual height. After his release, Wilkinson wrote Jefferson: "Ogden struts at large". McCaleb, 218.

Workman was judge of the County Court of New Orleans. He was a man of ability and courage, but lacking in self-restraint. He was responsible for the "Act for the Punishment of Crimes and Misdemeanors", and translated the "Laws of the Spanish Indies", as well as the "Royal Edict of Cedula of May 31, 1789, as to Slaves". He claimed credit for the well-known Act of 1805 for establishing institutions of learning and libraries. Cf. Dart, "Sources of Civil Law in Louisiana", 43 (New Orleans, 1911); *American Law Journal*, vol. VI, (Phila., 1817); *La. Ga.* for April, 1807. The writer is indebted to the Editor of the Quarterly for calling his attention to this volume of the *Law Journal*.

As to Claiborne's attitude to these and other military arrests, he wrote Madison January 6 and 15, 1807, as follows: "I know I shall be greatly censured here"; "Wilkinson's zeal has carried him too far." "The military arrests have greatly agitated the public mind". *L. B.*, iv, 96, 98, 106. By the middle of January the Governor seems to have recovered from his first panic.

†As this letter has never yet been published, the following copy of it is given:

"To his Excellency Governor Claiborne

"New-Orleans, on board the ketch Aetna, Dec. 16th, 1806.

"Sir—The singular manner in which I was taken and have been since confined by order of Commodore Shaw, has induced me to make this appeal to the executive and civil authorities of my country.—On Friday, the 12th inst. while peaceably descending the Mississippi, on my way to New-Orleans, on board of gun-boat No. 13, commandant lieut. B. F. Reid, he informed me that he had received orders to detain me a prisoner. I demanded

his authority; he replied, Commodore Shaw. I told Mr. Reid, I did not know that gentleman as a civil officer of the government of the U. States, and could not of course obey his orders. Mr. Reid observed, that expostulation or resistance were fruitless; that his orders were peremptory; and that force, if necessary, must be resorted to. Expressing still farther a desire to know whence this singular conduct arose, Mr. Reid could not or would not satisfy me in any other manner than by saying, that Com. Shaw was his authority; but that immediately on my arrival in New-Orleans, the cause and nature of my detention should be explained.—I have been here now four days without any arrest from the civil authority, without permission to make myself known, or to receive the advice and visits of my friends. Mr. Shaw informs me that General Wilkinson has given orders for my imprisonment, without any other authority than that of his own name. I demanded therefore of the executive that he cause me instantly to be released; or, if any charges have been preferred against me, that my arrest proceed from proper authority, and in due course of law. I am a citizen of the United States, and claim a right to the protection of its laws.—Wherefore am I detained? If I have offended any individual or the laws, let me be placed in the hands of the proper authority, and there confronted by my accusers. I claim it as a right secured to me by the constitution of my country, if my character has been assailed, that I be permitted to clear it of any stain that may have been cast upon it.—Has the executive relinquished his prerogative? Has the civil authority been over-awed, and rendered subservient to the lawless tyranny of military power? If not, where are its administrators? To them I look and appeal for protection from tyranny and oppression. —I beg your excellency will pardon the intrusion of this letter.—You obedient servant,
SAMUEL SWARTWOUT."

This letter was delivered at the Governor's office on the day of its date by Lieut. Hunt, of the Aetna.

The courts however submitted with great reluctance to the usurpations of the General, and began to feel, with some indignation, the degraded situation to which he had reduced them. The Governor also probably from an uncertainty of the light in which these novel measures would be viewed at the Federal City, took as yet no open or decided part with the General. The latter therefore began to think of it, if not necessary to his personal safety, at least prudent, under existing circumstances, to weaken as much as possible the hands of the civil authority, and at the same time strengthen his own. With this view, he made a demand of so much of the city militia as were in readiness for service; that is, the battalion of Orleans volunteers, consisting of about three hundred men, well armed and appointed; in fact the only part of the militia that had been really organized in that quarter. To this demand the Governor submitted with more than usual readiness; and without even paying the battalion the compliment of consulting them on the occasion. The Governor's conduct would perhaps have been more correct had it been less hasty. A moment's reflection ought to have convinced him, that in this act, he exercised a dangerous power, for which he had neither authority or precedent, and one which nothing short of the greatest and most pressing extremity of public danger could in any degree palliate or excuse. On a former occasion, in pursuance

of an act of Congress authorizing the government to accept the services of volunteers throughout the Union, in contemplation of a Spanish war, the Governor solicited them by companies to join the army at Nachitoches. This, as has been already seen, they refused to do; and their refusal was acquiesced in, as it should be without complaint. But now, merely on the rumor of the approach of an insurgent army that never had an existence, the Governor ordered three hundred citizens into the field, to serve with the army of the United States, under martial law, without the least regard to the will of the individuals thus dealt with and without any limitation of the time for which they were to serve. It has been generally understood, that these volunteers made a previous offer of their services; but this is untrue. The first notice they had of their being transferred to the command of Gen. Wilkinson, was given to them in general orders, about the middle of December.²⁴ On the 22d of that month they were mustered and inspected on the *place d'armes*, by Col. Cushing, inspector of the army; and on the 8th of January, they took the oaths usually administered to persons entering the military service of the United States, and from that day drew pay and rations as regular troops.^{w-33}

Let not, however, the acquiescence of the volunteers in these measures, be considered as a proof that they either assented to them or approved of them. At a moment of great public agitation and alarm, they suddenly found themselves in the service of the United States, they scarcely knew how; and they were perfectly sensible that any dissatisfaction *shown* on their part would be instantly branded with the imputation of cowardice or disaffection. They also saw, that to incur the displeasure of the ruling powers was immediately followed by denunciation, imprisonment, no one knew where, and transportation, none could tell whither. As soon as seized upon, the prisoner disappeared; his subsequent fate was involved in mystery and darkness; he was seen or heard of no more. In vain the friends of the sufferers call upon the constituted authorities of the country for their relief. Justice was awed into worse than sepulchral still-

(w-33) Writing to Mead on January 2, 1807, Claiborne declared that had the court solicited the aid of the Executive, the order would have been obeyed with promptitude. ****"perhaps I have erred: but**** the purest motive of honest patriotism have influenced, and

my best judgment directed all my acts". *L. B.*, 1v, 76. On May 19, 1807, he wrote Jefferson, who had approved of Wilkinson's conduct in New Orleans, that he had been influenced by the "purest motives".

ness; and the spell struck arm of the law in stretching forth to snatch the victim from the oppressor, only grasped at shadows, or was insultingly eluded by the unreal mockery of submission. Therefore it was, that this daring act of Gov. Claiborne's was submitted to so generally in the battalion. But in the first instance it was not submitted to universally. And the proceedings against those who were hardy enough to dissent, shews unequivocally, that this transfer of the battalion to Wilkinson, was a more oppressive and arbitrary impressment than ever was exhibited on Tower hill, or the warves of Wapping.^{w-34}

When the book was handed to the companies to be sworn, nine individuals refused to take the oath; alleging that they had not volunteered, and would not enlist. This occurrence took place on public parade, in the presence of the whole city. These nine individuals were accordingly arrested; and a court martial was ordered by General Wilkinson, who had certainly as yet acquired no lawful jurisdiction over the prisoners, to try the recusants on a charge of mutiny and disobedience to his orders. If the proceedings of this court martial are not here detailed with exactness, it is to be recollected, that the record of those proceedings is not within the reach of the writer. The facts, however, are substantially as follows:^{w-35}

Whether the recusants had counsel on their trial is not known. The arguments in their favor, however, were obvious. The battalion of volunteers were not governed by laws different from those of the militia generally, except that they had some pe-

(w-34) Among the grievances of the battalion was the putting of the volunteers on garrison duty; the dragoons were virtually the *gendarmes* of General Wilkinson. General disgust and indignation was said to pervade the three hundred members of the battalion, who, without their consent had been transferred into the military service of the United States. Inasmuch as there was no case of actual invasion, no rebellion or anything resembling one, the transfer was illegal and void. Even the President, it was asserted, could not have lawfully authorized such a measure. The only ones who believed an army was approaching were those interested in keeping up an alarm. As the transfer was without legal warrant, every order received from General Wilkinson

was void. Those officers of the battalion therefore who had obeyed these orders in arresting citizens had incurred a responsibility for which they must answer in the courts. The notion that the order of a superior officer amounted to a complete justification of everything done in compliance with it was untenable. In the last resort common sense must fix the limit of passive obedience. In short Wilkinson had been aided and abetted by the Governor "for the most odious purposes of domestic oppression". "Centurio" in the *La. Ga.*, May 8, 1807. He stated his criticism of the conduct of these two was only made possible by the fact that the "Press once more breathed in freedom".

(w-35) The incident of the nine privates refusing to take the oath is described in the *La. Ga.*, May 8, 1807.

culiar privileges, such as choosing their own officers, framing their own by-laws, and the like. As members of that battalion, they were not divested of any rights enjoyed by other citizens subject to militia duty. They were liable to be drafted, or wholly ordered into the field, as other corps of militia, when called upon by any legislative act of the general or territorial government, and not otherwise. That no such act²⁵ was in existence was admitted. It was therefore clear, that the Governor could no more force any member of that battalion into the service of the United States, than he could impress every citizen in the community subject to militia duty. It was therefore the opinion of the court martial that the recusants only exercised a right of which they had not divested themselves, and they were accordingly acquitted.

How will the encrimsoned blush of indignation burn on the cheek of honour and of patriotism when the result of these proceedings is unfolded! The proceedings and sentence of the court martial were transmitted to General Wilkinson, who in a rage reversed the sentence, ordered the prisoners into close confinement and threatened them with cat-o' nine-tails, should they not atone for their obstinacy by a timely apology, and immediately take the oaths required of them. The dread of infamous punishment prevailed. The young men submitted and were sworn into the service.^{w-36}

Such facts require no comment. This resembles not the impressment of British sailors, for that falls generally on characters who scarcely feel it as an oppression, persons bred to the sea and vagabonds. It seems rather intended as an humble imitation of French conscription, from the hardships of which, it is said, no class of society is exempt. But in the French service corporeal punishment is unknown. It is not in France, as it was at New Orléans, that the backs of freemen and of men of honor can be menaced with the lash at the capricious nod of every petty tyrant that "struts his hour upon the stage."—Language is too feeble to express the indignant, melancholy and mortifying pangs of reflection which such tyrannical wantonness necessarily suggests to liberal minds, to those who love their

(w-36) A group of officers and privates of the Battalion of Orleans Volunteers signed a protest against the punishment of a member save by com-

pany laws and regulations. The request was made that punishments be inflicted only in accordance with private regulations. *Ibid.*, February 13, 1807.

country, and really venerate its sacred institutions. It is enough to harrow up the soul of a freeman with the keenest of resentments, to see young men of genteel parentage and decent education, who are about entering life with characters unsullied, and in sanguine youthful hope of honor and independence, cruelly incarcerated for no other crime than a manly assertion of their indisputable rights, harrassed by an unwarranted and irregular prosecution before a tribunal to which they were not amenable, denied the benefit of an acquittal, which nevertheless could not be refused to their innocence, and finally menaced with indelible disgrace at a common whipping post, and all this, merely that a little ephemeral despot should have nine men more for a few weeks in his train!

The assumption of the command of this battalion proved also of singular use to the terrorists from a cause at first possibly not calculated on. Every American printer in New Orleans belonged to some company of that battalion. In this one neck the Caligula of Louisiana, found the vitality of a host of enemies at his mercy; and of this he triumphantly availed himself to lay violent hands upon the freedom of the press, that which has ever been justly considered, and emphatically styled the palladium of liberty, and to prostrate it in the dust before the bayonets of military despotism. The Post Office he had before secured;‡ so that little or nothing could reach the citizens from without that was not in perfect conformity with the views and wishes of the new Oligarchy. And to complete the "calm of despotism" within the printers were put under martial law. It was indeed at first expected that the soldier and the printer would be considered as distinct character; that when a printer was serving his country in arms, his press should not, on that account, be shackled with any unusual restrictions. But in this hope the public were deceived. The printers were plainly told that the soldier's back should smart for the printer's insolence; and they were particularly warned of that article of war which protects superior officers from the calumnies of those under their command. Mr. James M. Bradford, one of the editors of the Orleans Gazette, and a member of the Orleans troop of horse, attached to the battalion of volunteers, was more than once in confinement in a contest for the privileges of a citizen. From these coinciding causes, the command of the

Post Office and of the Press the ruling party at New Orleans kept the people of the United States generally in the dark as to the real and disgraceful situation of that city, and the complaints of the citizens. While on the other hand, every tale of falsehood and misrepresentation invented for purposes of personal malignity against those opposed to the existing usurpations, or in justification of the usurpers, readily found its way to the states, and solicited the public eye in every quarter of the union. The Gazettes of New Orleans, not daring even to complain of the fetters that galled them, travelled along the dull routine of regular publication, recording scarcely a single important event of the many that daily passed in fearful review before the eyes of the public.^{w-37}

If the Orleans volunteers have not addressed the government or appealed to their fellow citizens publicly in the language of complaint, their conduct since their discharge from the public service has rendered it unnecessary; it speaks loudly the indignant sentiments of the whole. Wearied with the fatigues of services unnecessarily imposed on them, disgusted with many of the duties required of them, and discontented with the conduct throughout of the government towards them, they laid down their arms with public demonstrations of joy; and for three months afterwards not a man of that battalion appeared in arms; or probably has yet appeared. Even on the 30th of²⁷ April, the anniversary of the treaty of Paris, of 1803, which had always before been celebrated with public rejoicings and a parade and review of the volunteers, the day passed unnoticed. All the weekly and monthly meetings of the companies were discontinued. Not a single uniform was seen in the streets on any occasion. In short the battalion was considered as dead, and

(w-37) For the early history of the two Gazettes, see an interesting article by Professor John S. Kendall, *Qy.*, 1x—July, 1927. Claiborne complained of their abuse of the Government. *L. B.*, IV, 44.

A correspondent of the *Louisiana Gazette* declared that the object of Wilkinson was to disarm the press. The cat-o-nine-tails was ready to visit the printer's sins on the soldiers' backs. As a result the two Gazettes became "so meek, so prim, so dull, so prettily behaved". "To still the blasts of popular

indignation by silencing the press was worthy of the presiding genius—the calm of despotism became complete among us". *Ibid.*, May 8, 1807. Dr. Watkins in the course of the debate in the legislature on the adoption of a Memorial to Congress censuring the conduct of Claiborne and Wilkinson, charged that the post-office had been erected into an inquisition, private letters being broken open. *Ibid.*, April 3, 1807. For the secret police, McCaleb, 240.

so probably will remain, unless important changes are shortly made in the territorial administration.^{w-38}

But among all the proceedings of the new government, that which excited most particular disgust and abhorrence was the vile system of *espionage* avowedly adopted for the discovery of disaffected persons. As perhaps upwards of a dozen depositions, privately taken at New-Orleans, and transmitted by General Wilkinson to the federal government, have already appeared in the public prints, the fact is of course unquestionable. The depositions published however, make but a small part of those taken. No man however unknown, or of little consideration, was refused as an informer. Many indeed who were publicly lost to reputation, and actually infamous, were received and even sought for to swell the torrent of information which poured from all quarters, in multiplied proof of the suppositious disaffection of the country, and magnifying the imaginary dangers of the moment. The expedient of taking information secretly, to be used secretly, without any notice to the individual whose reputation is affected by it, however pure the motive or patriotic the intentions of those who resort to it, is at best unjust, dangerous and cruel; an expedient not worthy of a free government and subversive of the first principles of civil liberty and equal justice, but one to which none but the most determined tyrannies have ever resorted. In many European countries which are far from being free, such means of information would be spurned at; means perhaps almost exclusively reserved for the gloomy chambers of the in-

(w-38) A correspondent writing in the *La. Ga.*, May 1, 1807, complained because April 30 was suffered to pass a vulgar day. His explanation was that the Executive deemed it unseasonable at that time to remind Louisianians that their state was free and under the dominion of equal laws.

The volunteers were dismissed on March 8 by Colonel Cushing. On the day previous he addressed them, lauding the "patriotic zeal and good conduct" which had characterized the corps. *Ibid.*, March 13, 1807.

†Candor requires acknowledgement that no *positive evidence* has yet appeared of the complete subserviency of the post office to the law *decemvirate* at New-Orleans. One or more grand juries have applied themselves with some assiduity but in vain, to penetrate the mystery. A strong impression however still remains on the public mind, confirmed by a variety of collateral facts, that the post office became a pander to the General's lust for secret information. It is even stated that to satisfy the post-master's *scruples of conscience*, General Wilkinson offered him a bond of indemnity with sureties that the General consulted his council on the occasion, who is said to have drawn up the bond, but that the bond was not made use of, as during the negotiation, it occurred to the contracting parties, that it would be difficult either in point of law or fact to indemnify a man against the penalties of a felony. How the conscience of the post master was quieted is unknown. But it is now admitted that some letters to Swartwout and Bollman were intercepted by the General at the post office. But were Swartwout and Bollman the only persons in New-Orleans whom the General suspected? And upon what *principle* did he make distinction between one conspirator and another.

quisition, and the Dyonisian closet of General Wilkinson. How often may a story be even conscientiously related, implicating an innocent man in crimes for which he could with ease exculpate himself by a satisfactory explanation of deceitful appearances? But as the officers of the government proceeded at New-Orleans, a man was frequently accused there, thence denounced at the city of Washington, and published throughout the United States as a convicted traitor, six weeks, or even two months, for the mails are extremely irregular, before he knew himself to be even suspected. With such cautious secrecy was information collected, that the magistrate sometimes administered an oath, and certified that the deposition was sworn to, without having been permitted to read it.‡ When power stoops to such mean and disgraceful methods of obtaining its ends, there are but too many among the weak and the wicked, who embrace that opportunity of raising themselves to fancied importance for the moment, by embellished disclosures of pretended secrets; and what is still more to be execrated, indulging their private resentments, or a natural malignity of temper in fabricating tales of detracstion. Thus slander, like the mole, cut reputation at the root unseen. Most of the persons injured were first openly attacked at a great distance, and in a quarter where they were for the most part unknown; where, consequently all advantage of previous character was unavailing to them, and they had no means to meet the blow with the promptitude necessary to repel it.

The effect of these measures on society was such as they naturally tended to. No man in New-Orleans felt himself safe; and, in truth, few escaped suspicion. It was well known, that even loose, unguarded expressions, sportively uttered in public or in private, were instantly carried to head quarters, and there officiously dressed up in the solemn garb of sedition. Neighbours avoided each other reciprocally as spies and traitors, neither could tell why. Private friendship was every where poisoned, and sick with mutual distrust. The temper of society generally was soured; there were but few, however, who dared to murmur loud. In short such a gloomy scene of abject dismay and fearful silence, had never before been witnessed in that city,

‡George Pollock, Esq., a justice of peace at New Orleans, is named as one of the magistrates who thus humbly aided in the cause of his new masters.

since the sanguinary administration of General O'Reilly;† whose memory is to this day, and ever will be there preserved in the archives of public abhorrence; and who would still perhaps have stood single in the distinguished detestation of Louisiana, had not General Wilkinson so eminently entitled himself to a participation in his immortality.

But to return to Swartwout and Ogden. Immediately on the release of the latter, when he could testify to the imprisonment of his companion, for Swartwout was on board of the same vessel, a writ was taken out for his release also. But it could not be served in time to prevent his removal to a place of confinement under the immediate orders of the General, and consequently out of the reach of the law.^{w-39}

Even Ogden's release was of little service to him. On the 19th of December he was again arrested, while sitting at dinner in a public boarding house, and carried into confinement. Mr. Alexander at the same time shared the same fate. And, as if the General took a delight in making the citizens feel how effectually he had humbled them under his feet, the Orleans troop of horse were selected for the odious and painful duty of arresting those gentlemen. Throughout the winter, indeed, this troop consisting of the most respectable citizens, were constantly employed in the most scandalous and degrading duties; hunting down their fellow citizens, impressing negroes and cattle, searching boats, and, in short, as a kind of *gendermail* to the General, acting in the loathsome capacity of mere bailiffs and runners.^{w-40}

A detachment of the troop was stationed at Manshaw,^{w-41} about a hundred miles above the city, to intercept and search boats descending the river, seize upon all suspicious persons, some of

†When Louisiana was formerly ceded by France to Spain, the colony was much dissatisfied with the change. And Gen. O'Reilly, the first Spanish Governor, arrested all those suspected of spreading dissatisfaction. Some he transported, and others he caused to be shot in the public square in the city of New-Orleans.

(w-39) Swartwout was conveyed across the river, thence confined at Fort St. Philip. Alexander endeavored without success to serve a writ of habeas corpus upon those in charge of him. *Ibid.*, April 17, 1807.

(w-40) Alexander having applied to Judge Workman for a writ of attachment, was arrested by Captain Bradish, of the Orleans troop of horse, hurried across the river, and likewise con-

fined for a period at Fort St. Philip. *Ibid.* On January 2 Claiborne rescinded the order placing the Orleans volunteers and the troop of horse under Wilkinson. *L. B.*, 1v, 75.

(w-41) By "Manshaw" is meant Manchac.

whom were²⁰ particularly named,† and give notice of the approach of the enemy. A company of regulars was also stationed, with like orders, a short distance above the town, at a place called the Willow Point, where accordingly, many boats were stopped, and several men and women and even children were occasionally detained as prisoners of state.^{w-42}

Once more on the behalf of Ogden, and also of Alexander, two writs of habeas corpus were allowed by Judge Workman and served upon the General. Not yet wearied with the reiteration of unsuccessful experiment to re-establish the ascendancy of the prostrate laws, nor to be deterred from the strict line of his sacred duties by the menaces of lawless power, or the denunciations of corrupt slander, this Judge kept with a firm step along the path which the law had marked out for him, the only path that leads to justice. The General's returns to these writs were as usual insufficient. A rule of the court accordingly directed the General to amend his return. In affected compliance with this rule the returns were altered, but still continued insufficient;‡ and an attachment against the person of General Wilkinson was applied for.

†Among those named in the General's orders was John Marsden Pintard, Esq., who in descending the river with his family was accordingly arrested. He has since published a most amiable correspondence between himself and the General on the occasion, in which the latter expresses his regret at the *mistake* under which Mr. P. was arrested, assuring him that it was the unintentional consequence of a *general regulation*, restricting persons descending the river, and not intended for him.

(w-42) Claiborne wrote Wilkinson the guard at Willow Point had caused great and continued complaints. *Ibid.*, iv, 99. On January 12 a guard of sixty men was placed on the west bank of the river with orders to examine every boat. An

official order emanating from the Coffee House prohibited vessels of any kind with munitions from ascending or descending the river. *La. Ga.*, January 20, 30, 1807.

‡*Gen. Wilkinson's first return.*—General Wilkinson requests the Honorable Judge Workman may have the goodness to receive the General's answer in the Superior Court of the territory in the case of the traitor Bollman, as applicable to the traitors who are the subject of this writ.
(Signed) JA. WILKINSON.

On motion of Mr. Livingston, ordered, that James Wilkinson, to whom a writ of habeas corpus was directed, commanding him to bring up the bodies of James Alexander and Peter V. Ogden, make a further and more explicit return thereto, or show cause on Monday next, at the opening of the Court, why an attachment should not issue against him.

Further return of General Wilkinson, in case of Peter V. Ogden.—The undersigned, commanding the armies of the United States, has taken upon himself the responsibility of arresting Peter V. Ogden, on a charge of misprison of treason against the government and laws of the United States, and has the honor to inform the Hon. James Workman, Judge of the County of Orleans, that the body of the said Peter V. Ogden, is not in his power, possession, or custody.

(Signed) JA. WILKINSON.

New-Orleans, Dec. 26, 1806.

On this return Mr. Livingston moved, that an attachment do issue against Brigadier Gen. J. Wilkinson. (The same return, and the same motion were made in the case of Mr. Alexander.)

Matters having been thus pushed to extremity between General Wilkinson and the laws of the country, it only remained now to be finally determined which should prevail. At this interesting crisis the court paused. General Wilkinson was at the head of about a thousand troops; the strength of the country was also in his hands, the volunteers being the flower and only efficient part of the militia.³⁰ Even the sheriff of the court was a captain in that battalion.† As to any energy in the civil administration of the country, it would be in vain to look for it perhaps at any time while Claiborne was chief magistrate, and still more hopeless at such a season. Judge Workman, therefore plainly saw, that without some better prospect of support, he would only expose himself and his court to further indignity by any attempt to enforce process against the General. On the fifth of January, he accordingly addressed a letter to the Governor, representing the difficulties of his situation in plain and manly terms, "I deem it my duty," said he in the letter, "before any decisive measures are pursued against a man who has all the regular force, and in pursuance of your public orders, a great part of that of the territory at his disposal, to ask your excellency whether you have the ability to enforce the decrees of the court in which I preside, and if you have, whether you will deem it expedient to do it in the present instance."^{w-43}

To this letter the Judge received no answer. On the 12th of the same month, he again wrote and enlarged on the same subject.—The second letter commenced with saying, "Not having received any answer to my letter to your excellency of the 5th inst. and considering your silence on the subject of it as a proof, in addition to those that previously existed, that your excellency not only declines the performance of your duties of chief magistrate of the territory, but actually supports the lawless measures of its oppressor, I have adjourned the court of the county of Orleans, *sine die*." To this letter the Governor paid no more attention than to the first. And on the next day, the Judge addressed the Speaker of the House of Representatives, then in session, on the subject; and transmitted copies of his letters to the Gov-

†George T. Ross, Esq., who lost his office on account of the independence of his conduct at that time.

(w-43) In his letter of January 5 Workman set forth the reasons why a writ of attachment should issue against General Wilkinson. He wanted to know if the Governor would sanction the calling of a *posse comitatus* to uphold the sheriff.

ernor, together with the necessary documents relating to General Wilkinson's contempt to his court, and the adjournment of it, *sine die*, without having issued the attachment against the General. The Judge's letters and representations were now becoming troublesome; and accordingly on the evening of the day afterwards, the 14th of January, he was arrested and confined by Wilkinson's orders. Being shortly afterwards liberated, he wrote two more letters to the Governor, one of the 25th of January, and the other of the 11th of February, urging him, but still in vain, to restore the powers of the civil authority. But at length, as he observed, "finding that he could not either by solicitation, remonstrance or just reproach, induce Governor Claiborne to support him in bringing General Wilkinson to condign punishment;" Judge Workman, on the 23d of February, resigned his office. The Judge's letters have been given to the public at length in a pamphlet printed at New Orleans last spring, and contain many just and severe strictures on the conduct of General Wilkinson, expressed with elegance and force.^{w-44}

(w-44) Workman's communication to the legislature on the 13th took the form of seventeen specific counts or indictments lodged against the Governor. Failing to receive the support of the chief Executive he had adjourned the court of the County of New Orleans. He desired to prevent those who had been arrested from being sent out of the Territory, since he feared they might be confined in Morro Castle. He urged Claiborne to oppose Wilkinson by force of arms. The documents submitted to the legislative body at this time consisted of affidavits and certificates called forth in connection with the military arrests.

Workman's letter of January 25 was addressed to the "nominal governor of the territory", for the incumbent had been reduced to a mere cypher. "You cried *craven*, before you received a blow". In his letter of February 11 he charges the Governor with being entitled to a full share of the blame for the "reign of terror" in the city since December 8, since he had abdicated his command in favor of General Wilkinson. The Governor had pursued a wavering, middle course. Had the danger been as real as had been represented by these two, General Wilkinson should have proclaimed martial law. It has been already pointed out that it was only Claiborne's reluctance that had prevented this step being taken. The writer concluded by declaring that his sole purpose was to rouse the chief

Executive of the Territory from his death-like torpor and his dereliction of duty.

Writing on March 28, 1807, Workman directs his pen against a little nameless brigadier, and an underlying clerk of Mr. John Beckley's. Claiborne is pilloried as *THE CRONONHOTON-THOLOGOS OF LETTERS AND WAR*, whatever that may mean. On the same date he penned an Address to the "Respectable Citizens, Inhabitants of the County of Orleans". In this his opposition to the lawless career of the two chiefly responsible for the fearful state of things is recited at length. He hurls back at these a statement falsely attributed to him: "the *republican* who possessed the power, and did not employ it to *establish a despotism* was a fool". The projected legal Code would have been mangled had Claiborne's recommendations been followed. The Governor had meanly attempted to assume the credit due the legislative council for its work in the summer of 1805. The chief Executive is contemptuously dismissed with this parting shot: "The poor daw may continue to wear and display the feathers which I charitably gave him to clothe his unfledged, miserable tail, but he shall not *steal* any of the plumes which I have appropriated for my own use or ornament." *La. Ga.*, April 10, 14, 17, 1807. To none of Workman's charges was any formal reply made by the Governor.

"*Libertas*", writing in the *La. Ga.* for

April 14, refers to the late pamphlet of Judge Workman containing his letters, and feels every true American should respect him for his opposition

to the outrageous proceedings of that pseudo-patriot, General Wilkinson.

"Nonvultus instantis tyranni.
Mente quatit solida".

Some short time after the arrest of Ogden and Alexander, assurances were publicly given through the friends of Governor Claiborne, that no more arrests of that nature should take place. And the public attention was again wholly engrossed by the preparations then in forwardness, to oppose the army of Colonel Burr, whose advance guard consisting of two thousand men, was confidently reported by the General to have been at the mouth of the Cumberland, under the command of General John Adair, who was represented as a hard and intrepid soldier, of high military character and distinguished talents. By this time it was supposed that he must have reached Natches at least; and many with anxiety looked out daily for him and his host; when lo! this redoubtable chieftain actually arrived in town, he had just crossed at West Florida unattended, and not a little astonished at the high command with which rumor had honored him in Kentucky, where in fact he had not been for a great length of time. He took lodgings in a public boarding house, and appeared to be in weak health. Adair's arrival, which happened on the 14th of January, excited some sensation in town, but one different from that of alarm. His presence at that moment, and in such a manner, at once dissipated a few remaining fears of the city; and placed the parade of Wilkinson's military preparations, his warlike speeches, and important intelligence from the upper country, in so ridiculous a point of view, that the citizens everywhere laughed heartily at the absurdity of the late alarms. It is easy to believe that such an unlucky incident, and the consequent change of public impression, were to Wilkinson insupportable. The gibes and jests that rung through the city were not to be endured. Few feel the stings of ridicule more poignantly than the solemn buffoon, who after a short lived reign of imposition, is suddenly stripped of his importance, and stands exposed to public contempt in all the majesty of falsehood and folly. Wilkinson, however, was not prepared to strike his flag; and accordingly determined on one more struggle to maintain his ascendancy, and if possible make the people look serious again. Accordingly, about four o'clock in the afternoon, two or three companies of regulars, under the command of Lieut. Col.

Kingsbury of the United States' infantry, besieged General Adair in his boarding house and arrested him while at dinner,† by orders of General Wilkinson.^{w-45}

At the same time the drum beat to arms. The troopers secured the streets. The volunteer companies hurried to their respective places of rendezvous. And three other citizens were arrested by parties of the Orleans troop of horse; namely, Judge Workman, whose arrest has been already spoken of; Mr. Bradford, editor of the Orleans Gazette; and Mr. Kerr, who has been already mentioned as taking out the writ of habeas corpus for the release of Ogden. Judge Workman at the time of his arrest, was dining in company with Judge Matthews of the superior court, and Judge Hall of the United States' District court, warmly remonstrated against the arrest, and in vain warned those who executed it of the consequences.

Kerr's arrest occasioned some surprise. This gentleman had³² been for several years in the habits of intimate friendship with Governor Claiborne, and was generally believed to have been high in his confidence, and very serviceable to his government. He was then a colonel in the militia; and it was scarcely a week before, that the important duty of arming the regular militia of the city was entrusted to him, and for that purpose nearly

†It is remarkable that all the military arrests at New-Orleans, took place in the afternoon, about dinner time. Whether the *jolly god* was accessory to any of these outrages is unknown.

(w-45) John Adair, afterwards senator from Kentucky, was, according to Adams (III, 220, 223) "certainly in the secret". He believed the object of Burr's expedition to be the opening of a road to Sante Fe and to the mines of Mexico. Giving that up Burr turned his attention to strengthening himself on the Ouachita. Cf. McCaleb, 83.

Adair left Kentucky in December of 1806, proceeding by way of the Choctaw and Chickasaw nations to the settlements on the Tombigbee. Reaching New Orleans by way of the St. John Bayou on January 14, he went between twelve and one o'clock to Madame Adair's boarding-house, where he was arrested as described in the text. The night following his arrest he was conveyed about two o'clock in the morning to Fort St. Phillip.

According to Wilkinson Adair was to meet Burr on January 12 at Bayou Pierre. For the relations of these two, McCaleb, 127-128.

Adair denied he was engaged in any of Burr's plans, and that Major

Floyd and one Ralston would deny ever having spoken to him on the subject. He likewise denied having said: "Let him (General Wilkinson) confine me and be d—d. I despise his power". *La. Ga.*, April 14, 1807. The affidavit of John F. Carmichael touching the reputed conversations of Floyd and Ralston is printed in *Ibid.*, April 10, 1807. In Adair's letter to Jackson in 1817 he emphatically repudiated any knowledge of Burr's intentions. Adams, III, 228. In December, 1806, a grand jury at Frankfort, Kentucky, found nothing criminal against Adair. *Moniteur*, January 15, 1807. In June of that year Claiborne wrote Jefferson that General Adair was in receipt of the most pointed attentions from a portion of the American society in New Orleans. "He abuses our government and its officers and denounces Wilkinson as a pensioner of Spain and a traitor to his country." He was represented as a man capable of a desperate enterprise. For Adair's suit against Wilkinson, McCaleb, 300.

a thousand stand of arms were delivered to him from the public stores. It is well known, however, that his opinions were unfavorable to the measures of Wilkinson; and that he had strenuously urged the Governor to oppose them. It was even said he made a proposition to the Governor, to authorize him to place himself at the head of a party of the militia, and arrest General Wilkinson, *on his own responsibility*, and ship him for the City of Washington. As this disposition in Kerr could not have been altogether unknown at headquarters, it is only surprising that he should have so long remained unmolested. A few days before, the Governor informed him that some secret representations had been made, injurious to his reputation as a citizen and a soldier; and Kerr having every reason to believe that the charges came from the General, demanded his arrest as a militia officer, that he might be confronted with his accusers, and meet their accusations openly before a court martial. He afterwards demanded an exhibition of these charges; but they never made their appearance, at least in that shape, and the arrest was taken off without trial.^{w-46}

To Kerr's arrest by Wilkinson, it is certain that the Governor had not assented; as immediately on hearing of it, he interceded for his release; claiming him as his own prisoner already under military arrest by him, as commander in chief of the militia. And on the General's hesitation to comply, the Governor remonstrated with much spirit against his conduct. It would have been inconvenient to Wilkinson to break openly with the Governor. He therefore yielded to him in this instance. And Col. Kerr and Judge Workman were next morning taken before Judge Hall, on a writ of habeas corpus, which but for the Governor's interposition would probably have been but of little avail.

But as the lords of the forest, when forced to relinquish their prey, generally indulge their savage temper in at least one more vengeful gripe before they quit their hold, so the General on this occasion surrendered his prisoners, but not without bringing for the first time into the light, what he conceived had justified their arrest, namely, two secret affidavits which he had for some time before extorted from the young officers, calculated, as he hoped, to convince the public that Kerr and Workman were engaged in the conspiracy of Burr. In his returns to the writs also, he men-

(w-46) Lewis Kerr was a citizen of the Mississippi Territory, who was made sheriff under the American regime. Claiborne in a letter to Madison referred to his great talents and address. *L. B.*, 1v, 167.

tioned, as his reason for arresting these persons, an apprehension that they would have attempted the rescue of General Adair; without however offering any other proof of that intention than his own bare suspicions.

These returns and affidavits produced at the Judge's chambers a general investigation of the political views of these gentlemen for several years back. And it now appeared that they had been members of one of the private associations which were formed during the first³³ Spanish aggressions, and which had for its object more than the mere defence of the country; in fact, that this association had contemplated, should their views be approved and supported as they expected, to separate several of the Spanish provinces from that crown. But it further appeared that this association had been for a very considerable time dissolved; they having even previous to the late aggressions, abandoned in disgust their project altogether. And it was in particular shown, to the satisfaction of all present, whatever the plans of Colonel Burr might have been, that this association could not have had any matter of concern in them, or connection with their author. The affidavits transmitted by the General, when stripped of mysterious aspect, and viewed in open day, contained only some conversations, in which Kerr and Workman had often indulged themselves at table with their friends, respecting the invasion of the Spanish provinces; and the declaration of Lieutenant Francis Small, that Mr. Kerr, more than a twelve month before, had engaged him in an expedition against Baton Rouge.^{w-47}

But though the association had not been in existence for a great length of time, and there was no ground to believe that either of the gentlemen accused were connected with the expedition then expected from the upper country, the partizans of Wilkinson insisted on giving him credit of having sagaciously

(w-47) According to the testimony of Lieutenant Murray given to the Court of Enquiry into the conduct of Wilkinson, Murray was invited to dine with Judge Workman on an occasion in 1806. At the dinner was revealed the plan of Workman and his fellow conspirators to seize upon the banks of New Orleans, impress the shipping in the river, incidentally capture Baton Rouge, and conclude by joining Miranda by way of Mexico. Truly a grandiose scheme! *La. Ga.*, August 2, 1808.

Lieutenant Small declared he had been

bound to a laudable enterprise in connection with Kerr, but it was such a one as could not have alarmed the government. He suspected, however, on his return from the Red River that the real motives of the undertaking had been concealed from him, and that its object was different from that stated by Kerr. After coming to New Orleans he did not disclose everything to General Wilkinson, because he was not positive that Kerr entertained different views from those previously unfolded to him. *Ibid.*, July 7, 1807.

discovered a terrible plot; and it was urged, even though these gentlemen were unconnected with Colonel Burr, or his late treasons, that they had, sometime before, committed a distinct and heinous offence, in "setting on foot" an unauthorized expedition of their own, in the course of a former year, against the Spanish possessions. And thus what a few months back would have been universally respected as a patriotic enterprize, highly honorable to all concerned in it, was now not only denied any kind of merit, but actually sunk into a crime. A prosecution accordingly was instituted; but ended in the acquittal of the accused. It is unnecessary to give any detail of the trial, as it has been already reported and published.^{w-48}

(w-48) The association referred to was a club formed in the city and known as the Mexican Society or Association. It was probably inexistence in the summer of 1805, for, according to Dr. Watkins Burr on his visit to New Orleans at that time ridiculed a foolish club he heard of. The chief purpose of the organization, if we are to believe its more prominent members, was to collect information about Spain's internal provinces, since every one was apprehensive of war with that country. The members declared their organization had no connection with Burr. It was their intention to act only with the express consent of the federal government. The society broke up when threats of war with Spain passed away. *La. Ga.*, April 3, 1807; *American Law Journal*, vi, 132. For Burr's visit to New Orleans and his interest in the Society, McCaleb, 29, 33.

On January 7 a grand jury summoned by order of the Superior Court of the Territory returned presentments against Kerr and Workman, who were at that time practising attorneys in the city. According to the indictment these two for about a year past had been confederated together for the purpose of making expeditions against Baton Rouge and Mobile, as preliminary to an attack upon Mexico. In order to accomplish these ends diverse citizens were corrupted, attempts were made to seduce several officers of the army; another part of their scheme was the seizure of the banks and shipping in the harbor.

By Claiborne Workman was denounced as "a wicked and seditious man", who on March 1, 1806, and at other times conspired to detach the Territory from the Union, to expel the Governor and set up an independent government. *L. B.*, iv, 120, 171-172. For similar accusations against Colonel Bellechasse, McCaleb, 228.

Wilkinson characterized the association, whose members were bound together by oath, as a "diabolical band". He assured the Governor there were the "strongest grounds for believing Judge Workman had been actively and deeply engaged in these nefarious projects". *L. B.*, iv, 95.

In their defense Workman and Kerr alleged they were opposed to the capture of Baton Rouge. A proposal to take possession of that place, however, had been communicated to the Governor. Stress was laid upon the fact by the defendants that every member of the association was engaged to support the local and general governments and the laws of the United States.

Workman testifying in behalf of Kerr said: "I wish to emancipate Spanish America, should Spain be at war with the United States, and provided our government will sanction the enterprise". He advocated the expediency of granting to the inhabitants of the Territory the rights of American citizens, for this would make the government popular in the event of war with Spain.

He argued that *criminal intent* was not involved in *actual preparation* for an expedition, but the expedition must be actually *set on foot*. He enumerated to the court the insults and outrages perpetrated by the officers and agents of Spain. He contended that country was actually at war with the United States, but reverted to the fact that he and his associates contemplated taking no step without the explicit permission of this government. Admission was made by him that he had long meditated an expedition to Mexico.

At the trial of the two defendants before Judge Hall, the jury, being unable to come to an agreement, was discharged at the end of three days. On March 2 Kerr was again arraigned in the federal district court and, after trial lasting

two days, was acquitted after a few minutes deliberation by the jury. Judge Workman in his second trial on the same date offered no defense. After a brief deliberation by the jury he also was acquitted. *Amer. Law Journal*, vi, 132-152; *La. Ga.*, March 6, 1807. McCaleb, 222, erroneously states the trial took place at Natchez, *La. L. B.*, IV, 119.

Claiborne writing to Madison in March of 1808 included in a "Society of Choice Spirits" the two above mentioned defendants, together with Bollman and

Alexander. It was the intention of this group, he noted, to publish a journal called the "Magic Lantern". *L. B.*, IV, 167. In September he wrote Madison that.....with two friends was writing a book to ruin General Wilkinson and "rescue his character from the injurious suspicions which attach to it". The individual who was not named, was a "most unprincipled Frenchman", that was suspected of being engaged in Burr's conspiracy. *Ibid.*, IV, 167, 211-212.

This trial gave occasion to a discussion on which many took opposite sides and doubtless with equal sincerity. Private associations, such as that of which Kerr and Workman were members, were considered by some as combinations of a dangerous tendency; for that with whatever purity of motive many might enter into them, such societies were too easily led by artful and dishonest men, to transcend their original purpose, and hurry into improper excesses. It was urged that even in case of an actual war, to direct any portion of the force or resources of the country to any other objects than those designated by the government, would be a misapplication of that force and those resources, injurious to the natural strength, and committing the character of the country in schemes, for which the country ought not to be answerable. It was said that the duty of a good citizen was to follow his government to the field, and not to run before it. The secrecy observed in the particular associations now spoken of, was also considered as peculiarly objectionable, and even a justification of the suspicions entertained; for that some thing must have been wrong where every thing was concealed.^{w-49}

It would not be denied that some of those arguments were entitled to weight. But in opposition to them it was urged, that to condemn associations of this kind because designing men might use them for improper purposes, was arguing unfairly from the abuse against the use; that the same objection existed against government of every description; that no humane institution was exempt from the frailty here complained of. It was further insisted, that expeditions by individuals, either by sea or land, in time of war, rather strengthened the national arm, by promoting a disposition to military enterprize, and inuring many to the hardships of service who would otherwise remain inactive; and that the force and resources which such occasions commonly

(w-49) For the observations of Workman on the danger of such societies as the one in question, *Amer. Law Journal*, vi, 152c.

call into action, are for the most part those which, except when employed in such expeditions, usually lie idle. The principle that the citizen should move only with his government was perhaps at least mechanically true; but it seemed clear, as long as private adventures are admitted by the rules and usages of war, and not forbidden by municipal regulations, and that there can be no crime in them; or even in preparing them in time of peace, if war be immediately expected. The strictures incurred by this association in particular, on account of the secrecy of their proceedings, was complained of as unjust and illiberal; and generated only in the vulgar jealousy of some who were piqued at not having been themselves let into the secret. It was obvious that an association having in view the invasion of a neighboring territory, would, by publishing its object or its proceedings, defeat itself. The countries to be invaded were little known. And such a knowledge of them as would be necessary to the invader, could be required only by visiting the countries themselves, or establishing an extensive correspondence with them. In the prosecution of such a project, therefore, the strictest secrecy was indispensable; not only, least all means of information should be cut off, but more particularly to prevent those who should be there engaged in the undertaking, from being exposed to the resentment of the government. This argument, it was admitted, could not account equally well for not communicating the project to the government of the Union. It appeared, however, that this was faithfully intended. But it would have been perfectly useless to make that communication until the war should have actually begun; and until the plans of the association were better matured, and more nearly in readiness for operation, than those of this association appeared to have ever been. To prepare an expedition by land, in expectation of a war, without consulting the executive, in the first instance, is as allowable as to fit out in like manner a privateer, under the same circumstances; than which is nothing more common. The expedition here contemplated, also had assumed a character eminently elevated above all schemes of petty warfare and pillage. The object was not to steal upon and plunder the unarmed merchant. It was to raise the standard of natural rights, political liberty and free trade, in the face of opposing armies; and deliver one of the fairest portions of the globe^{ss} from a most odious system of colonial bondage, conceived in tyranny, and nursed in fear,

ignorance and weakness. The project may have been visionary, or be considered as impracticable. But it does credit at least to the hearts that warmed in the cause; and only required like the American revolution, the sanction of success, to reflect immortal honor on all engaged in it. Gen. Wilkinson therefore utterly failed in his malicious attempt to confound this project with the wretched plans of plunder and treason, with which he had terrified the too credulous inhabitants of New-Orleans; and the accused were both acquitted, much to the satisfaction of their fellow citizens generally.

About this time, or rather earlier, Gen. Wilkinson wishing to try how far even the laws themselves might be made an additional instrument of terror in his hands, and by no means discouraged by the first essay in the superior court, though somewhat embarrassed there by the necessity of specific affidavits, he applied to the United States judge of the district, to hold a special court, and summon a jury, as he had some important accusation to lay before them. He expected, probably, that closeted with a jury, who were not lawyers, and no longer under the eye, or immediate control of the court, he could perform his evolutions with less restraint, and more easily impose on credulity with testimony of an illegal or equivocal nature. But he was unable to convince the judge that the measure was at that time either necessary or proper.

He then applied to the superior court of the territory, to summon an extraordinary grand jury for the same purpose; though from the want of judisdiction in this court over offenses against the United States, it was obvious that in this step he had some other view than that of legally convicting any of the delinquents whom he had to accuse. The judges of this court proved more obliging than the United States judge. And a grand jury being summoned and impanelled, they were charged by the court to inquire of all offences against the United States, as well as those against the territory. It was acknowledged that the court had no ultimate jurisdiction over the former; but it was suggested that possibly the grand jury had; and that after bills or presentments of that nature had been found, it would be time enough for the court to determine what ought to be done with them.

The grand jury having retired, the General, on a day fixed for the purpose, presenting himself to them with a speech as

usual, his decyphered letter which he before read to the court, his intercepted correspondence, some of it in cypher still undecyphered, his file of affidavits and other documents. The particulars of what passed in the grand jury room must of course be unknown elsewhere. The result however was, that on the 24th of January, the grand jury presented Brigadier General Wilkinson, his adherents and advisers in the following words:

"In addition to the bills of indictment now preferred by the grand jury, for the city and county of Orleans, they feel themselves³⁶ imperiously called upon to present as a most dangerous and alarming evil, the late unprecedented exercise of military power in this city. They have seen with no less astonishment than grief the laws and the civil authority prostrated before a military force. They have seen the citizens of the United States and of this territory seized upon and imprisoned by that force, and deprived of the benefit of that great bulwark of civil liberty, the writ of habeas corpus. Nay more, they have seen the general commanding the American army, come before this honorable court, and openly avow such illegal acts, and declare he would persevere in them. And to this grand jury the same general has acknowledged the commission of such acts, and sought to justify them, by alledging that they were previously advised or approved by the Governor and two Judges of this territory. Whoever his advisers were, we hold such advice, under existing circumstances, as a total dereliction of all regard to the constitution and laws of the United States, and as striking at the foundation of liberty. We enter not into the question, how far it is allowable to do evil that good may result from it; for we are no casuists. Many specious reasons are urged in justification of those arrests. We leave to those who urge them to show their validity, and this honorable court to form a judgment thereon."^{w-50}

This presentment was signed by Mr. Evan Jones, the foreman, and handed to the court. The allusion to the disgraceful scene a short time before exhibited in open court, and the hint

(w-50) The grand jury's presentment condemning Wilkinson is printed in the *Moniteur*, January 31, 1807. A grand jury at Washington, Mississippi Territory, February 2nd, threw out a similar bill of indictment brought by Poindexter, the attorney-general. The late military arrests were presented as a grievance, destructive of personal liberty, made without warrant, and as the jury con-

ceived, without lawful authority; and they do "seriously regret that so much cause should be given to the enemies of our glorious constitution, to rejoice at such measures being adopted in a neighboring territory, as if sanctioned by the executive of our country, must sap the vitals of our political existence, and crumble the glorious fabric in the dust." *La. Ga.*, February 20, 1807.

respecting those who possibly might have advised the measures of the General, were evidently felt and with some sensibility by the court. They on the spot, impatiently dismissed the grand jury, without even the usual expression of thanks in return for the patience and industry with which they had for some weeks pursued their inquiries. The people in the United States may perhaps be curious to know why indictments were not framed on this presentment and the offenders called upon to answer them. But it will be recollected that the business was now properly in the hands of the attorney general,[‡] an officer of the government, and who was too well acquainted with the value of that office and other offices which he holds to do otherwise than consign all such impertinent presentments to oblivion.

On the 13th of January, the session of the legislature commenced at New Orleans. And the General, as if determined that no branch of the government should remain unassailed, was admitted at his own request, to the bar of the house of representatives; where, the doors being closed, he again delivered his speech, and once more produced his decyphered letter, his intercepted correspondence, his budget of affidavits and other papers. If this stale scene was thus acted over again with a view of legislative indemnification from the penalties of the law, for offences which he had committed against the territory, he was disappointed; no such bill was proposed. On the first day of the session, Judge Workman, as has been already mentioned,³⁷ had handed to the speaker of the house of representatives an intimation of the adjournment of his court *sine die*, with his reason, and documents, in support of them. And one of the members from a distant country. Mr. Hughes, arrived with a complaint of his having been arrested on the road by one of the General's parties, and detained until his papers underwent a shameful and illegal search. Legislative bodies are in general, and with great propriety, tenacious of their privileges.—Such an outrageous violation of them as occurred in this instance therefore was not very tamely brooked. The General accordingly found the assembly not altogether in a temper to pay much regard to his communications; and though they heard them with patience, they never took any further notice of them.—Even Claiborne's speech at the opening of the legislature, full of affidavits,

[‡]John Ward Gurly, attorney general of the territory, register of the land office of the United States, Etc.

regard and parental concern for the country, remained unanswered until late in the session. And the answer at last was but a cold recapitulation of the speech. All approbation of public measures was studiously avoided; and not even one poor compliment was paid to the talents or virtues of the orator. The communications from the House to the Governor, continued in the same strain throughout the session. And at length the legislature was prorogued without a speech from the executive; the first instance of forbearance in this respect ever known under the administration of Gov. Claiborne; whose love of trite displays of political elocution is exceeded only by his inordinate appetite for the aromatic offerings of panegyric, to which, he only conceives, such patriotism, and such talents so eminently entitle him in return.^{w-51}

Against the officers of government and their measures, however, were the legislature were by no means prepared to take any decided steps. There were certainly some men of independence perhaps in both houses; but there also were some few who had not got over their prepossessions respecting the threatened insurrection, and were not perfectly assured that the danger was yet over; those in fact who had from the first credited Wilkinson, without consulting their understandings, and still persisted to believe in him rather as a matter of faith than of reason. Many also were deterred from avowed opposition to Wilkinson, by an apprehension justified by experience, that however pure their motives, they might be subject to a suspicion of being friendly to the designs attributed to Burr. And these causes co-operating with the influence which the executive necessarily derived from its patronage,[‡] a decided opposition to the government could not be expected. In pursuance of the resolution of the lower house, a memorial to Congress was prepared by

(w-51) Hughes was one of the country members of the legislature. He and Dr. Watkins, the speaker, bitterly arraigned Claiborne and Wilkinson for their conduct in connection with the "reign of terror" during the previous December and January. The proroguing of the legislature without a speech

from the Governor was attributed by "Z" to the fact that he could not with decency embellish his speech with encomiums of personal liberty, etc. *Ibid*, May 1, 1807. McMaster, *History of the United States*, III, 73, erroneously states the legislature was summoned in special session.

[‡]The attorney general was a member of the lower house, not to mention several clerks of the courts, sheriffs, country judges, etc. The mayor of the city also, doctor John Warkins, was the speaker of that house; but as a warning to all others in similar situations, he in the course of the session lost his office in consequence of the independence of his conduct; and Mr. Mather, a member of the upper house was appointed in his room. By a late law persons holding lucrative offices under government will be for the future ineligible.

a select committee, respecting the situation of the country; but with so much boldness of design and³⁸ warmth of coloring, that it by no means suited the prevailing taste or disposition of the majority, the memorial was rejected by a majority of seven; and the idea of making any representation to Congress was abandoned.^{w-52}

(w-52) While it may be true, as our author states, that no decided opposition to the government was to be expected from the legislature, it is entirely erroneous to represent that body, as Adams does, as a timid assembly (III, 323). On January 26 the House addressed Claiborne as follows:

"With regard to the extraordinary measures which have taken place for some time past in this territory, although your excellence has not thought proper to reveal to the Legislature the reasons which have led to them, yet this House considers it as a sacred duty which they owe to themselves and their fellow citizens fully to investigate those measures and the motives which have induced them, and to represent the same to the Congress of the United States". *L. B.*, IV, 113.

Three days later the House requested the Governor for information relative to the danger threatening the Territory, the number of the militia under General Wilkinson and other pertinent information. *La. Ga.*, February 3, 1807.

The Memorial referred to was in the nature of a protest against the subversion of the civil authority by the military arrests and other acts for which Wilkinson was held primarily responsible.

"Though nothing can justify, yet circumstances of extreme danger in the moment of invasion, during the suspension of civil authority, might excuse some of these violent measures. But here no foreign enemy or open domestic foe was then, or has yet been proved to have been within any perilous distance of this city, or that treason lurked within our walls**** The acts of high-handed military power to which we have been exposed (are) acts too notorious to be denied, too illegal to be justified, too wanton to be excused".

During the course of the protracted and heated debate on the Memorial, one speaker declared:

"We feel grateful pleasure in referring to those constitutional bulwarks exerted for our protection—an honest pride in the consciousness that

we have not rendered ourselves unworthy of the blessing—and an indignant grief which we are sure your honorable body will participate, in the reflection that the noblest plan ever devised for the protection of personal liberty—the finest theory ever imagined for the restraint of arbitrary power should, before we have seen its operation, be rendered abortive—that the best gift offered by the United States should be violently torn from our grasp, and that, while its constitutional guardians looked tamely on, the holy temple of justice should be sacrilegiously rifled of this revered palladium of our rights".

The attack upon the high-handed methods of Claiborne and Wilkinson was led by Watkins and Hughes. In particular the conduct of Wilkinson was made the subject of a long and bitter arraignment by Hughes, who repudiated the suggestion of treason in the Territory.

On March 15 in committee of the whole, it was voted to read the Memorial. One member remarked on this occasion that ten weeks before the legislature was unanimous in favor of forwarding the protest to Congress. Watkins opposed re-commitment of the Memorial, and was sustained by a majority. He admitted a few errors in the document. In the course of his speech he alluded to a judge, whose fidelity had long been suspected. Gurley, the attorney-general, moved rejection of the report. After three days of secret debate, Watkins concluded with an invective against the triumph of a military despotism over the civil authority by the two chief offenders. Claiborne, he declared, had been "confounded with fear and astonishment" when he disclosed to the speaker Burr's scheme. The move to submit the Memorial to Congress was finally lost by a majority of seven. *La. Ga.*, March 20, 24, 31; April 3, 10, 1807.

In March of this year Claiborne writing to Madison, expressed the opinion that Watkins sincerely loved his country, but his zeal for the liberation of Mexico had led him into some imprudences. Cf. *L. B.*, IV, 120. It was

Watkins who had suggested to the Governor the propriety of sending couriers to the governors of the western states when the danger from Burr seemed imminent *La. Ga.*, April 7, 1807. For his courageous assault upon the exer-

cise of arbitrary power, he paid the penalty with the loss of the mayorship.

Claiborne construed the complaint of military despotism as probably caused by a desire of "exciting tumult and disorder." *L. B.*, IV, 130.

The reign of terror however was now nearly at an end. The arrival of Colonel Burr in the Mississippi territory, with a few common family boats, and about forty men, unprepared for any military expedition, set the public mind at ease. Whatever his designs might have been, it was evident, if they had been hostile, that they were now abandoned. While the fantastic proceedings of the acting Governor of that territory on the occasion, his march of three hundred men, under the noisy command of the pompous Colonel Claiborne, his truce and his treaty with Burr, and his flowing association of Wilkinson diction in his speeches and state papers, by thus winding up the alarms of the winter perfectly in character, cast a shade of unavoidable ridicule on the whole.

With what reluctance weak men part with power! Though now relieved from all apprehension of instruction or invasion, Governor Claiborne, who probably had by this time received his cue from the Federal City how to act,[‡] now openly defended the measures of Wilkinson, and even acknowledged a participation in them, as was believed, far beyond the truth. Though rather late in the season, he now manifested a decided disposition, before the opportunity should be altogether lost, to surprise the world with an energy of character which he was not generally suspected of, by playing tyrant a little himself; his first effort was to prevail on the legislature, while in session, to suspend by law the operation of the writ of habeas corpus; preparatory no doubt to some bold measures he was determined the public exigency should require; although as has been since proved, the country could be saved without them. The communication to the legislature on the subject was a curiosity. It was received and read with closed doors, but has since been published. He informs the assembly that he had certain information of the approach of one of Burr's adherents against whom however, there was not

[‡]The President's proclamation against Burr had reached N. Orleans about the 6th of January, but produced no extraordinary sensation there. So far as Burr's designs were conceived against Mexico, they excited no manner of uneasiness. It indeed surprised the good people of Louisiana, not a little to find the government so extremely solicitous about the territories of their neighbours after having shown so much indifference as to the protection of their own.

sufficient evidence to authorize his arrest by the civil authority; and that unless some more summary mode of proceeding were adopted against him, he might continue without interruption to perform "the treasonable duties," with which he was charged.^{w-53}

That the government after having already arrested more than a score of citizens at different times, without any civil process; and without ceremony transported five of them to the United States, should become suddenly so squeamish about the seizure of one solitary conspirator more, exhibited a truly ludicrous picture of their insincerity and weakness; insincerity in alledging that such alone was the object³⁹ of the proposal, and weakness in indulging a hope that anyone could be for a moment deceived by it.

The truth is, that the persons to be arrested were numerous and well known in the city, as men marked for destruction. But the government had secured a majority in both houses in favor of the bill; and it was expected to pass without delay. Even the day when it was to be finally approved of and become a law, was calculated with confidence. Orders were already issued to the troop of horse to assemble on the evening of the day "after dusk" at the General's quarters; and the rest of the militia were ordered to be under arms early on the following morning. It is not easy to conjecture the numbers which in the course of that night were doomed with "one fell swoop to be hurried into dungeons."

All prospect of arresting the bill in its progress through the legislature seemed hopeless. The letter and spirit of the constitution and of the ordinance of the territory, were in vain urged against it. Though there was no invasion, no insurrection visible, or even any longer apprehended, and the only evidence produced to show that the public safety required so strong a measure, was private information to the Governor, that *one* man was expected in the territory with dangerous design, yet the bill had the majority in its favor, and even the attorney general defended its propriety and constitutionality. To protect the gov-

(w-53) On February 10 Governor Claiborne in his message to the legislature recommended the expediency of suspending for a *short time* the privilege of the writ of habeas corpus, to enable him to deal summarily with certain conspirators. Three days later Judges

Hall, Mathews, Sprigg, and James Brown, the district attorney, reported to the Speaker of the House that the legislature did not possess the power to comply with the Governor's request. *Ibid.*, March 27, 1807; *L. B.*, IV, 121. Cf. Gayarré, *lv*, 181-184.

ernment against *one* stranger, the liberty of thousands was to be exposed to the mercy of as weak, vindictive, capricious and haughty a pair of tyrants as ever stalked upon the stilts of brief authority!

Fortunately even for those who were thus forging fetters for their fellow citizens, fortunately perhaps for the internal peace of the Union, a doubt occurred to the house of representatives, whether a territorial legislature had authority to pass such a bill; and the reasonings of the attorney general did not satisfy them on that point. The case was accordingly referred to the Judges and the United States' attorney for the district,¹⁹ who gave a unanimous opinion in the negative; and the bill was withdrawn. The orders to the troop of horse were countermanded; and the citizens once more slept in peace.

It is perhaps not very important to relate, what as a fact that occurred however ought to be noticed, that the government at N. Orleans or more probably the General alone, desirous of extending the alarm as wide as possible, wrote to the Spanish Governors, Folch at Pensacola, and Grandpré at Baton Rouge, to put them on their guard against Burr. These gentlemen were no doubt much indebted to the General for his communication, as it furnished them with the excuse for making a bloodless campaign, at the expense of the king; a campaign in which Spanish officers take great delight. Grandpré, unluckily had but few or no troops, but following the example of more illustrious personages, he opened the campaign with a *proclamation*, in which he warned his militia to hold themselves in readiness for service; but at the same time candidly acknowledged that he was not satisfied of the existence of the danger. Folch took more vigorous²⁰ measures. Conceived himself invited, tho' on what grounds is unknown, to join the Americans against the common enemy, he presented himself at the mouth of the bayou St. John, about five miles from the city of New-Orleans, with an army of three hundred men, and modestly proposed to march them into town, on their way back to Baton Rouge, through the American territory. The sentiments of Wilkinson on this proposition are known. Claiborne, however, would not permit the Spanish troops to land;

¹⁹Mr. James Brown.

and Folch proceeded to Baton Rouge, by the way of the lakes.²⁰ w-54

As the publication proposed only a detail of events that occurred in the city of New-Orleans, little else of importance now remains to be related. The compending outrages and follies that were at the same time exhibited in other places, have for the same reason been for⁴¹ the most part unnoticed here. The result of Wilkinson's transportations however, are too nearly connected with the subject of these pages to be passed over altogether in silence. It is true that whether the persons transported were guilty or not of any crime, is perhaps immaterial; even their guilt would be insufficient to justify the unnecessary, illegal, unconstitutional and tyrannical hardships of the measures with which they were pursued. Even had the General really been in possession of satisfactory evidence against these men, his con-

(w-54) Burling arrived in New Orleans on February 20. *La. Ga.*, February 24, 1807. For relations between him and Wilkinson, *McCaleb*, 62-63, 140, 164-169 (trip to Mexico), 188.

Loftus's Heights was a military encampment on the river above New Orleans.

²⁰About the latter end of February, Captain Walter Burling, a respectable planter, who resides near Natches, arrived at New Orleans from La Vera Cruz. This gentleman had been one of General Wilkinson's *aid-de-camps* extraordinary at the Sabine. Immediately after Wilkinson's negotiations there with the Spaniards, Burling suddenly returned to his plantation in the Mississippi territory, and shortly afterwards set out by land for Mexico; having obtained as he avowed, at the Sabine, the necessary passports for that purpose. At the city of Mexico he had an audience of the Viceroy, the object of which is unknown. Burling however, immediately afterwards was desired to quit the province without delay; which he accordingly did, by going to La Vera Cruz and embarking for New-Orleans. Thus far the facts are well known and acknowledged to be true. But the object of this mysterious and truly extraordinary expedition has never been satisfactorily explained by Burling or his friends. If the object was an innocent one, or one in which Wilkinson, was not connected, his friendship for Wilkinson ought to induce him to declare it. Burling's reputation as a man of honor stands too high to admit of his statement's being disbelieved, should he have thought proper to make one. When individuals refuse to disclose secrets, rumor will always at least endeavor to do so. Burling's trip of course gave occasion to a variety of strange surmises. But the report which seems most entitled to credit is that one which followed Burling from La Vera Cruz, on the authority of one of the principal officers of the government at that place. By this it appears that Wilkinson having persuaded the Spaniards at the Sabine, that Burr was on the point of making a descent on the Spanish possessions with a powerful force lamented the impossibility of stopping him with so small an army as he, Wilkinson, had under his command, and complained of the penurious disposition of his government which had not furnished him with men or arms; or with money enough to raise or equip a respectable force; but that if the Spaniards would furnish the funds, he would put New Orleans, Loftus's Heights, and other places in such a state of defence as would completely disconcert the plans of Colonel Burr. The Governor of Taxus, as was said, struck with the excellence of Wilkinson's schemes closed with him immediately; and the sum to be furnished by the Spaniards was fixed at three hundred thousand dollars. Of this, however, the Spanish governor could not then advance more than from twenty to twenty-five thousand dollars; there being but little specie in that province. But that advance being made, Burling was stated to have been sent to Mexico for the balance. This report however, goes on to say that the Viceroy disapproved of the weak conduct of the Governor of Taxus, and refused to ratify the bargain; and having told Burling that he could protect his master's territories without General Wilkinson's assistance, he ordered him to quit the city in twenty-four hours, and the province as soon as possible afterwards.

duct towards them was wanton and oppressive. But to deprive him even of the puny semblance of justification, which he might seek in the crimes of the persecuted, or in the evidence which he had of these crimes, it has been the fate of all his arrests to terminate in the release of his prisoners; those who were transported in particular, having been all discharged without trial, and even without bail, when the charges against them underwent a legal investigation.

Bollman descended the river Mississippi, under the guard of Lieutenant Wilson, of the United States' artillery, and four men. About twenty-five miles below the city they remained at anchor until the 19th of December, awaiting the decision of the court on the habeas corpus, and the orders of the General, which were that day received by the hands of an officer who arrived from the City on horseback. On the 14th of January, the prisoner arrived at fort Johnston, near Charlestown in South-Carolina, where he was delivered into the custody of Captain Kalteison, commanding at that fort. The situation of the prisoner being made known in town, a writ of habeas corpus was allowed by Judge Bee, and served on Captain Kalteison. After some hesitation, this officer consulted the Governor of the State, who declined giving any opinion or advice. It was finally determined however, not to surrender the prisoner; Captain Kalteison, justifying his refusal by saying, that he acted under the orders of his superior officer. Already this haughty spirit of contempt for the laws, emanating from the commanding general, thus briskly circulated through even the most remote ramifications of the army, nourishing sentiments of military independence destructive of all social order, if not even intended to vibrate the arm of military force, in actual contemplation of a speedy and definite struggle for pre-eminence with the civil institutions of the country; to such a struggle conduct like General Wilkinson's, if persisted in, or perhaps if ever again repeated, must necessarily lead, and possibly the General cares not how soon. A sincere disposition to peace on the part of the people, a conviction that condign punishment would before long overtake the offenders, in the ordinary course of justice have perhaps hitherto preserved the country from the horrors of a civil conflict. But should the friends of the country's freedom be disappointed in this just expectation, the next occasion of a similar nature presents itself, may not perhaps find them so unprepared for resistance. It is of little moment to a degraded people whether

it be an hereditary monarch, or an elected president, that braves the law. Freemen know of no distinctions between tyrants; and Heaven sanctions resistance to oppression, whether the dungeons of the oppressed be in a barrack or a bastile. ^{42 W-55}

The conduct of Captain Kalteison, without doubt, has its advocates; for what political crime can be committed, which some in the United States, have not at some time or other endeavoured to justify? That however, which in Wilkinson was an offence, cannot become a virtue in his subaltern. The officers at the fort, apprehending some difficulties with the civil authority, embarked Bollman privately in the middle of the night, on board of a revenue schooner, in which, on the 22d of January, he arrived at Annapolis, and was, on the same day, sent to the City of Washington, and there delivered into the custody of Colonel Wharton, and confined in the marine barracks.

On the next day, if not sooner, the executive appeared to have had knowledge of Bollman's confinement; and that the confinement was a military and an illegal one. This is proved by a letter of that date from the Secretary of War to Colonel Wharton, directing him to surrender his prisoner, when demanded, by the marshal of the district; and thus obliquely instructing him to detain that prisoner without any legal authority, until it should please government to send the marshal for him; and Bollman accordingly remained in confinement until the 27th, when he was arrested by a bench warrant, from the circuit court of the District of Columbia. The reasons of his detention so long, and of the new measures at length pursued against him, are equally obvious. It will be recollected that the bill to suspend the operation of the writ of habeas corpus, had then passed the Senate of the United States; and that on the 26th, it was expected to pass in the House of Representatives also; and in that case, would without doubt have immediately received the executive sanction and become a law. Bollman was therefore in the meantime kept in rigorous, illegal and unconstitutional confinement four days, under the eyes of the very supreme executive of the Union, to the perfect knowledge of him who has particularly sworn "to preserve, protect and defend the constitution," and whose most especial constitutional duty is to "take care that the laws be faithfully executed." Nor did this happen through inadvertence or accident, but in deliberate

(w-55) Bollman was carried to Charleston in the schooner "Amelia", under charge of Lieutenant Watson. *Ibid.*, February 20, 27, 1807.

design, and an expectation that the law which was about to pass would, by a kind of retrospective operation, sanction the crime,[‡] and thus place the oppressed prisoner for a still longer period out of the protection of the law. But to the honor of the American people, this unnecessary, time-serving and unconstitutional bill was rejected by their representatives, a hundred and thirteen votes against nineteen! And the government thus disappointed in their favourite scheme of oppression, had to drag their prisoner next day from his dungeon into court. Let it not be said that the President himself knew nothing of these proceedings. By his own previous permission, he had, during this interval of illegal confinement, namely, on the 24th of January, a personal interview with the prisoner; who was for that purpose conducted, in the custody of a military officer, to the President's own house; and after a long conference, at which the Secretary of State was present,⁴³ reconducted by the same officer to his prison. And from the same prison he on the next day entered into a correspondence with the President at the President's own solicitation.*** We should cease perhaps to exclaim against the enormities of Wilkinson, since even the threshold of supreme magistracy has been voluntarily polluted by the unhallowed footstep of lawless military violence in approved possession of an oppressed and unprotected citizen.^{w-56}

[‡]The bill as passed in the Senate provided *ex post facto* to sanction arrests previously made.

***The object of this conference and subsequent correspondence was at the time much misunderstood, and perhaps wilfully by many. It is now however known to have been honorable to Bollman, as the friend of Burr, unmixed with any personal views of his own.

(w-56) On July 16 Bollman wrote from Philadelphia to the editor of the *Aurora*,—Duane's journal—a letter, the substance of which was as follows: He sought an interview with the President for the purpose, first, of removing the false impression entertained by the chief executive as to treason; secondly, in order to convince him that the interests of the United States would be best served by war with Spain, and hence Burr's expedition should have been countenanced. He quotes a letter from Jefferson of January 25 asking for a confidential account, in reply to which he sent a confidential communication of twenty pages. Upon this was predicated the necessity of a pardon—a *badge of infamy*—because the President misunderstood his English. In conclusion he contended that the indictment of Burr was due to a misconstruction of the law of treason; of his patriotism

there could be no doubt. *Ibid.*, September 1, 1807.

From the point of view of the government, Bollman having made a disclosure of the views and designs of Burr, his declaration would go to incriminate him before the grand jury. It was in order to prevent this the pardon was tendered by the President, who was anxious for Bollman to testify against Burr. *Ibid.*, July 24, 1807. Bollman had been sworn and sent up to the grand jury at Richmond as a witness against Burr. That body having no further occasion for his evidence, declined to take any action on his letter of June 19 addressed to the jury in which he set forth his reasons for refusing the pardon. *Ibid.*, August 24, 1807. Cf. McCaleb, 339.

For the attempt of Congress to suspend the writ of habeas corpus, Adams, III, 338-340.

Swartwout, who arrived at Annapolis at the same time with Bollman, and in like manner sent to Washington, and confined in the marine barracks, after having been landed at New Orleans, from the ketch Aetna, he was sent down to Fort Philip, on the Mississippi, about sixty miles below the city. Previous to setting out, he demanded to know whither he was to be carried; but the officer of the guard refused to satisfy him. And Swartwout conceiving, that he had the most to fear from a destination thus mysteriously concealed from him, pushed suddenly by the guard and attempted to effect his escape. The soldiers were immediately ordered to fire after him, and several pieces were accordingly levelled; but owing to the dampness of the weather, the guns either missed fire or flashed in the pan. One only, after hanging fire, went off, but fortunately without doing mischief.† Swartwout was then pursued and retaken. In the scuffle which ensued, one of the officers of the guard twice drew his dirk and endeavored to stab the prisoner; who continued to be treated with extreme rigour, and was even threatened with fetters. A pair of heavy irons indeed were actually brought to the guard room for the purpose, but were not used.—While Swartwout remained at the guard room in New-Orleans, Mr. Alexander served a writ of habeas corpus in his behalf on the officer, but without effect. The consequence of it only was that the guards received stricter orders not to admit strangers; and even to fire upon any civil officers, who should persist in a determination to see the prisoner. Swartwout remained at Fort St. Philip, until the latter end of December, when he was shipped on board of the schooner Nimrod, Captain Catharel, for Baltimore, and arrived at Annapolis as has been already mentioned.

On the 27th of January, these two prisoners, Bollman and Swartwout, who had been confined separately at Washington, were taken before the Circuit Court of the District of Columbia, on a charge of treason. In this Court, consisting of three Judges, two concurred in admitting the President's proclamation of the preceding month, and his communications to Congress, on the subject of the supposed conspiracy, as evidence of commission of certain *overt acts* of treason, by persons connected with the prisoners in some political scheme; in short, taking as *facts proved*

†Had Swartwout been killed in a lawful effort to force his way from unauthorized confinement, there is little doubt but that Wilkinson might have been convicted of murder. And although an interposing providence would not permit the actual perpetration of the deed, the offence has been at least severally committed.

what have since proved to be the *misrepresentations* of these instruments,²³ the Court committed the prisoners for treason. They accordingly remained separately confined in cold, narrow, uncomfortable and unwholesome cells, until the 21st of February, when being brought before the Supreme Court of the United States, on a writ of habeas corpus, the evidence against them was held to be totally insufficient to charge them with any crime, and they were dismissed without bail.^{w-57}

Mr. Alexander has already given to the public, a spirited and well written appeal to his country, a full account of his arrest and transportation to Baltimore; where, it is now sufficient to add, he also was released by a habeas corpus, and discharged without bail.^{w-58}

General Adair, who was arrested at N. Orleans, on the 14th of January, was kept a close prisoner in the barracks, until a little after midnight, when he was taken down to fort St. Philip,

²³That several hundred men had been actually combined, armed, officered, etc., in the western country.

(w-57) At Washington on January 26 an attachment was moved by the attorney for Bollman and Swartwout against Colonel Wharton and Lieutenant Mead for refusing to obey a writ of habeas corpus served in behalf of the two prisoners. The counsel for the latter consisted of Messrs. Dorsey and Francis S. Key. On the day following a bench warrant was issued by the judge of the District Court against the two defendants, charging them with treason. Jones, the U. S. attorney, read depositions of Wilkinson incriminating the prisoners, together with an affidavit of William Eaton to the same effect. First, it was alleged, they were guilty of treasonable intent. The defendants were moreover guilty of infamous and abortive attempts upon the honor and fidelity of the said Wilkinson. They were active and acknowledged participants in Burr's plot. Lastly, the prisoners were the

active confederates of those who had levied war.

The senior judge doubted if the President's message could be cited as evidence of the fact that there was an actual levying of war. Jones then moved the court to issue a warrant for the arrest of the said Bollman and Swartwout on the charge of treason in order that they might be brought before the court.

On February 13 Chief Justice Marshall granted the writ of habeas corpus that had been applied for. On the 21st of that month the two defendants, having been brought before the Supreme Court, were discharged without bail. Their attorneys made lengthy and elaborate arguments for the purpose of convincing Marshall and his associates that the distinguished tribunal was competent to issue such a writ. *Ibid.*, March 6, 20, April 24, 28, 1807.

(w-58) "Alexander's Appeal", dated Baltimore, February 13, was reprinted in the *La. Ga.*, April 17, 1807, having first appeared in the *Federal Gazette*. It closes as follows:

"Can such things be
And overcome us, like a summer cloud
Without our special wonder?"

In a letter dated Washington, February 9, Alexander told how he and Ogden spent the night after his arrest on a ground floor infested with rats. The next morning after sunrise he was

hurried across the river to a shed that had been occupied by Swartwout. Here he was detained about a week, then removed to Fort St. Philip for two days. From that point he was conveyed by schooner to Annapolis, which was reached after a voyage of twenty-eight days. Thence he was conducted by a Mr. Sevier to Baltimore, thence to Fort McHenry. After his arrival in Washington, he was taken before Judge Duckett, and on February 6 restored to liberty by a "kind of finesse". *Ibid.*, March 31, 1807.

and there detained until the following night about the same hour, when he was again removed to an uninhabited place in the swamps, about twenty miles lower down, and there concealed in the weeds. Weather more severely cold perhaps was never known in Louisiana than during the six days and nights that Adair lay there exposed to the inclemency of the season. About forty miles below his place of confinement an entire boat's crew in the pilot service were frozen to death. And similar accidents happened in the city on the same night. On the 22d of January, the prisoner was shipped on board of the schooner *Thacher*, Captain Haw; for Baltimore; where he arrived on the 17th of February, and was the next day taken by a writ of habeas corpus, before Judge Nicholson, who dismissed him without bail. On the 22d of the same month, being at the city of Washington, he addressed a note to the attorney general of the United States, to apprise him of his arrival there; and of his readiness to meet any charges that could be exhibited against him; but none have since been heard of.

Ogden was the fellow-citizen and fellow-passenger of Adair; and was in like manner discharged at the same time at Baltimore.^{w-59}

Thus, after outrages of a most unusual alarming nature had been resorted to in order to make these five persons answerable for some unknown offences of a heinous nature of which they were secretly accused, offences of such singular enormity that the laws were supposed insufficient for their prevention or their punishment; and after these gentlemen had, in consequence of this serious charge, been violently deprived of their liberty, denied all intercourse with their friends or the magistracy of their country, outlawed to all intents and purposes, and finally transported two thousand miles, on a dangerous voyage, at an inclement and tempestuous season of the year, in small, unsafe, and uncomfortable vessels, at the risk of health and even of life, to the private inconvenience incalculable, at a heavy expense to the nation, in subversion of the most sacred principles of the American constitution and laws, and to the utter disgrace of the civil authority; it at⁴⁵ length appeared, on legal and dispassionate inquiry, that there did not exist a particle of testimony proving even the probability of a crime against any one of these five

(w-59) Adair's account of the events narrated in this paragraph is printed in the *La. Ga.*, April 14, 1807. Cf. Adams, III, 324.

persecuted individuals; who were accordingly discharged and suffered to proceed, each as he could, to their respective homes, without any manner of indemnity for their losses or sufferings, or any prospect of such indemnity, except such as the law may vainly award to them out of the gold laced pockets of a bankrupt in fortune as well as reputation; nay, instead of the satisfaction of knowing that the author of their persecutions would be brought to punishment, they have had the mortification to find even the government itself in a great degree accessory to his guilt.

But to return to New-Orleans. The extraordinary scenes there, were now drawing fast to a close. The visionary perils which has so long enveloped that country in a darkness and chilling fear, had dispersed like a mist of the morning. The rebellion had been crushed, it was said, in the womb of speculation; the armies of Colonel Burr were defeated before they were raised; Colonel Burr himself was prisoner; and the time was at hand when General Wilkinson had to prepare for his departure to the United States, in order to complete his victory over the rebels in due form of law.

Wilkinson, however, well knowing that in this new campaign he himself had something to fear, and accordingly made his propositions for a defensive as well as an offensive war. Sensible of the many heavy and perilous responsibilities to which he had subjected himself, and the necessity he would be under of defending positions heretofore universally considered as untenable, he determined to strengthen himself as well as possible on every side. In this situation of his affairs a project was suggested truly worthy of the desperate game which he had been playing; one that would have occurred to few so circumstanced, and in which the consummate effrontery and peculiar genius of this man alone perhaps could hope for success. Well aware of the influence of popular opinion with the present administration, and that it is admitted, not only as conclusive evidence of individual worth, but even as the test of abstract truth; and that the voice of the multitude not only supersedes the authority of all law, but furnishes also a fluctuating but never erring standard of moral propriety, to which all are expected to conform in defiance of every fixed principle; General Wilkinson took the bold ground that all his measures had been popular in the extreme, even in New-Orleans, among the well affected; and immediately set about, through his friends, to collect evidence of this

almost incomprehensible paradox. And on a close view of this scheme, it was found by no means so extravagant or impracticable as it must have appeared. It is true, it could not be expected that the country could be really prevailed on to signify their approbation of measures which had for so many months kept them in painful and unnecessary alarm, suspending all manner of business and depreciating property of every kind. To raise even a semblance of the popularity of such measures in that country while the facts are yet fresh in the memory of all, and were publicly recorded in the presentment of a respectable grand jury, seemed a task of⁴⁶ more than common difficulty. The arduous and apparently absurd attempt however was decided on; the public addresses to the General were prepared for subscription. At first they were handed round privately among his own partizans and those whom they could influence, and afterwards left at the coffee-house, or hawked publicly about the country for signature. These addresses were in the usual stile of all such unhappy productions; tissues of fulsome compliment, imperfectly conceived and awkwardly expressed, stating in general terms the obligations of the country to the General for having disconcerted the plans of Col. Burr, and admitting the propriety of the temporary suspension of the civil authority.^{w-60}

That the Governor should have no cause of offence, another addressed to him, in nearly the same strain of hollow panegyrick, was circulated for signature in the same manner, and with perhaps more than equal success; exhibiting a ridiculous proof of the insincerity of the addressers, nearly the same names being signed to both; for whether the measures of the winter called for praise or censure, Wilkinson alone was entitled to the whole of it. Even when Claiborne did now and then assume a kingly mein, it was plain that Wilkinson was viceroy over him. The Governor's agency in these measures was at no time much more than nominal, and at first not even so much as nominal; his

(w-60) The addresses to Governor Claiborne and General Wilkinson, commending their "loyal, dutiful and patriotic conduct", the replies of these two, together with the list of the signers of the addresses are given in the *La. Ga.*, March 27, 1807, and the *Moniteur*, March 28, 1807. Among the signers were Julien Poydras, Benjamin Morgan, Joseph Saul and Dr. William Flood. McCaleb, 306, describes a banquet at New Orleans in May of this year in which toasts were drunk to Jefferson and Claiborne.

"La Larme" writing in the *La. Ga.*, May 19, 1807, in commendation of Wilkinson's conduct, asserted the one blot on the emblazoned escutcheon of his virtues was the removal from office of the keeper of mortgages, one of the oldest and most respected inhabitants in the city. He was moreover blessed with a large and an amiable family and had held the office with unsullied reputation for a series of years. Lastly, he had honestly purchased it according to law under the Spanish government for the sum of \$25,000.

merits, therefore, if he had any, were at best those of a negative nature. But the General, and of course the Governor, wanted a dish of praise; and to those disposed to serve it up to them, it was a matter of perfect indifference, whether these gentlemen had done everything or nothing, or which of them had done everything and which nothing, or whether any thing had been done at all to deserve praise. To say that the usual arts to obtain signatures were not neglected on this occasion would give but a faint picture of the activity, intrigue and perseverance exerted to enlist names under these gaudy banners. And many causes conspired to prevent the partizans of the General from meeting with the repulses which they merited.

The General's lady arrived in New-Orleans in the course of the winter, and after a long and painful sickness, died there. Domestic sensibilities are, or at least ought ever to be held sacred in the bitterest of political animosities. It is not therefore here intended to wound the private feelings of the widowed, by even hinting an unkind suspicion, that his sorrow at that melancholly event was insincere. But this may be said, it is hoped without violence to a single fibre of his heart, that at the time just spoken of, the General did not appear insensible of the value of those sympathies in society, which a misfortune so interesting was calculated to excite; and that at least his friends used it to the best advantage. The General's domestic loss gave to the advertisers a handsome opportunity of being *pathetic* in at least one part of their address; and to the General, of being *pious* in his answer.^{w-61}

There were also many in society, who not only from the common inability of mankind to resist importunity, but from causes still more imperious, dared not to refuse their names to the list; those⁴⁷ who depended for subsistence on lucrative offices which they hold under the government.† These place-men are very numerous in New-Orleans. And as more than one had been lately removed from office avowedly for the opposition which they gave to General Wilkinson, few that remained in place were willing to hazard any measure at all calculated to excite a suspicion of their disaffection. If then to the list be added, as is

(w-61) Mrs. Wilkinson died on Monday night, February 22, after a long and painful illness at the home of Bernard Marigny. *Ibid.*, February 24, 1807.

The *La. Ga.* of February 27, contained an appreciation of her estimable qualities and of her patience in her last illness.

†It is remarkable however, that neither Mr. Brown, the district attorney, Mr. Gurley, the attorney general, or even Mr. Duncan, the General's counsel, signed these addresses.

ever the case on such occasions, a multitude of names little known or scarcely before heard of, the signature of that class of men who sign almost any thing under the influence of example they know not and they care not why, and of the many in the lower walks of life, who are proud of the opportunity of mingling for once with their betters, it will cease to be a matter of surprise that among a population of fifteen thousand souls,[†] consisting perhaps of the most heterogenous assemblage of various nations and complexions ever known, the arts of General Wilkinson, and the industry of his partizans were able to procure one hundred and fifty names to a paper which he conceived of such importance to his future fate in life. It is wonderful only that the number was so small.

That several gentlemen of wealth and character were among the addressers cannot be denied. The best of men are sometimes most easily imposed on. And most of that description on the list may perhaps be truly said to be indebted for their respectability to qualities of more sterling value than mere brilliancy of intellect. And it is a fact eminently beyond the possibility of question, that the men of propriety, independence, reputation and weight in society, who did not nor would not dishonestly lend their names to this miserable trick, outnumbered the actual signatures beyond all calculation.

Thus having been, during six busy months, an object successively of distrust, terror, hatred and ridicule, the General, with a strange and motley collection of witnesses against the conspirators, sailed about the 20th of May, for Norfolk, in the United States' schooner *Revenge*. His visit to New-Orleans was like that of a pestilence; at his departure every countenance brightened, as at a sure symptom of the returning health of society.⁴⁸

[†]The population of the city of New Orleans, suburbs and country immediately in the vicinity.

A VISIT TO LAFITTE

Contributed by Elliot Snow, Rear Admiral, C.C., U. S. Navy.

Note. A Visit to Lafitte contributed to the current issue of the Louisiana Historical Quarterly is an authentic narrative of stirring adventure. While it throws a very curious sidelight on the career of Lafitte, it "has more enduring value to readers of today in preserving the glory of our Old Navy." The country through which the boats crew of the U. S. S. "Lynx" under the command of Lieut. J. M. McIntosh pursued these pirates has surely changed greatly since 1819-20, yet the Editor of the Quarterly writes of it, "there is sufficient left of the ancient scene to enable one to visualize the desperate nature of the adventure upon which these brave fellows embarked."¹

The story of the visit here given was first published in the "Knickerbocker Magazine" for March, 1847, pp 254-261. Concerning it the Editor of that magazine said:

"We cannot permit [this narrative of *an eye witness*] to pass to our readers without remarking that it is to such men as the brave and wary officer who had command of the boats on the occasion referred to, that the United States Navy is indebted for its high renown throughout the world."

The Superintendent of the War Records and Library of the Navy Department, very kindly caused a search to be made of the Department's records, and there found the following letter which fairly definitely places the authorship of the narrative with Lieut. James M. McIntosh:²

"Nov. 10, 18

"Sir:—It is with pleasure I have to inform you, by request of Mr. Lafitte, commander of the forces at this place that on the 8th instant I was despatched with the communication to him from Lieut. Commandant J. R. Madison, of the U. S. Navy, the commander of the U. S. Schooner Lynx having been blown off by boisterous and disagreeable weather, that the treatment *I have received*

¹The Louisiana Historical Quarterly has already published two articles on the Lafittes. The first in Vol. II, No. 4 (out of print) and Vol. III, No. 1. Authentic accounts of Jean and Pierre Lafitte are to be found in De Bow's Reviews, Vol. VII, pp. 111-222, Life and Times of Lafitte; Vol. XII, p. 372, Popular and Traditionary Sketch of Lafitte's Life; Vol. XIII, pp. 102, 204, 422, Communications About Lafitte; Vol. XIX, p. 151, Lafitte the Pirate, etc.—Contributor.

²The letter was published in "Niles Register" (weekly) Vol. 17, p. 396.

*from him*³ has been the most friendly, generous and hospitable, and every possible means extended in making the situation of myself and crew agreeable and comfortable, and every assistance given in securing the prisoners which have been delivered to me during my stay.

J. M'INTOSH."

The narrative does not disclose which one of the two Lafitte brothers made the request of the author. It was made undoubtedly by "Captain" Lafitte, who was called, by Louis Napier, one of his admiring companions, the "Napoleon of the Sea."

ELLIOT SNOW.

A VISIT TO LAFITTE

The following authentic narrative of stirring adventure is derived from an eye-witness of the interesting events which it describes. We cannot permit it to pass to our readers without remarking that it is to such men as the brave and wary officer who had command of the boats on the occasion referred to, that the United States' Navy is indebted for its high renown throughout the world. It may be proper to add, that a prominent incident of that excellent and popular work, 'Conquest and Self-Conquest,' is confirmatory of the authenticity of one scene in the present narrative.

ED. KNICKERBOCKER.

In the winter of 1819, when the late Commodore Patterson commanded the United States' naval forces in the Gulf of Mexico and on the coast of Louisiana, the United States' schooner *Lynx*, then commanded by the gallant and lamented Lieutenant J. H. Madison, was ordered to cruise between the mouths of the Mississippi river and the harbor of Galveston, at which place LAFITTE had a force of some three hundred and fifty men. The prizes captured from the Spaniards by the privateers of Lafitte were taken to Galveston, and in lieu of money the crews were paid off with certain portions of the cargo, which ultimately were irregularly introduced into the United States, in boats through our western rivers, the Sabine, Memento and Calcasieu.⁴ It was to prevent this illicit trade, and to protect our citizens on that coast, that decided the Commodore to give the *Lynx* that destination.

³Italic shown here are not in the original but were supplied by the contributor.

⁴As this is a reprint we do not feel called on to change the spelling of these names. They are sufficiently phonetic to enable the reader to identify them.—Editor Louisiana Historical Quarterly.

On arriving off the Memento river the schooner was brought to anchor, there not being sufficient water on the bar for her to enter. Boats were despatched immediately, under charge of her First Lieutenant, (the present Commander J. M. MCINTOSH,) who, very soon after getting into the river, overhauled a fishing-boat, from a settlement some distance up the river, and learned from the crew that two armed boats, with some eight or ten men in each, had left the previous night for the Sabine; that these boats belonged to Galveston, and that the men pretended to be cruising under authority from Lafitte. They had ascended the rivers Memento and Calcasieu, and in many instances had robbed the citizens and horribly abused the females. Lieutenant McIntosh also ascertained that a small privateer, cruising under the orders of Lafitte, had captured on the Campeachy bank a Spanish schooner, and had succeeded in getting the privateer and schooner over the bar of the Calcasieu river, had ascended it some hundred miles, and were still trading with the inhabitants, who were few and widely scattered apart; and that apprehension was felt that after disposing of their goods they might maltreat them. It was soon discovered that one of the crew of the fishing-boat was more intelligent than the rest, and a pilot, for they seldom visited rivers except for the purposes already alluded to; there was therefore little time lost in making an agreement with him and taking him to the Lynx. The information was no sooner communicated to the active and vigilant commander of the schooner than the hoarse voice of the boatswain was heard: 'All hands up anchor, ahoy!' It was soon secured, and all sail set for the Sabine, Lieutenant Madison wishing first to get possession of the armed boats. The shoal water at the mouth of the Sabine runs off a long distance, and the schooner had again to be anchored and the boats despatched; now, under charge of the sailing-master, Mr. King, and a midshipman. The boats of the Lynx were necessarily small, for she was but about one hundred tons' burthen, and it was advisable not to overload them with men, lest it should impede them in pulling, as the boats they were after were described as being very fast.

Just before night Mr. King left with his two boats and ten men, with instructions to guard the mouth of the river closely during the night, so as to prevent the boats escaping, and at daylight to ascend the river until he found them. He had not however proceeded far before they were in sight, and the chase

commenced. For two hours the boats from Galveston held their own, but after that our boats gained rapidly, and the chase soon terminated by the piratical boats running ashore, and the men jumping out and concealing themselves in the immense cane-swamps which arise on the sides of this stream near its mouth. Mr. King, finding it impossible to get the men, and aware of the anxiety of his commander to proceed at the earliest moment to the Calcasieu river, in hopes of securing the privateer, took his two prizes (both fine boats) in tow, and before the sun had left us for the day, he was on board. The captured boats could not be hoisted in, but were soon dropped astern; and again the little *Lynx* spread her canvass, looking northerly for the Calcasieu. The distance between the mouths of these rivers, the reader must recollect, is not great; and as the morning broke, the pilot pointed out the mouth of the river; and when abreast of it, and as near as safety would permit the schooner to be carried, she was anchored, and preparations were commenced to ascend the river. Lieutenant McIntosh was ordered to take command of the expedition, and Purser Fanning, since dead, volunteered to command one of the boats. The two prize-boats were selected, from their size and for being equally fast with those of the *Lynx*. One week's provisions for twelve men and their officers, a musket and pistol for each, and good tarpaulins for keeping them dry, were provided, and the expedition started.

There was but little of interest for the first fifty or sixty miles. The land on each side of the river was low; the river itself sinuous and abrupt in its turnings, but gradually becoming more fresh, with less current. About the commencement of the second night, however, after having passed through several lakes, some of which were so large as to make it difficult to see the opposite shores, the river contracted; the land became more elevated, with a most luxuriant and large growth of forest-trees. The pilot now informed Lieutenant McIntosh that it would be necessary to proceed with great caution, as he believed they were getting in the neighborhood of the search. The oars were immediately muffled, and the boats took different sides of the river, to prevent the possibility of passing the vessels. As they ascended the river it still contracted, until the limbs of the immense forest-trees touched and formed a canopy which excluded almost the sight of the stars. It had now become intensely exciting. The darkness of the water—for it becomes, after ascending a hun-

dred miles up, almost black—the trees shutting out the heavens, and the dreadful howlings of wild beasts, apparently immediately over the boats; the screeching of that night-bird, the owl, and the bellowing of some hundreds of cattle pursued by the barking wolves, and dashing in their fury along the banks of the stream, all combined to make the scene one of wild and exciting adventure.

Just previous to the dawning of day the loud crowing of a fowl indicated an approach to some habitation, and the pilot desired the boats might be checked. They were pulled to the middle of the river and made fast to a sawyer to await the day-light, which soon appeared, when there was discovered a short distance above, on the right bank of the river, a log-house, enclosed with what is termed a Virginia fence. The landing-place was soon reached, and Lieutenant McIntosh and his companion, Purser Fanning, proceeded to the house, and after some little time they succeeded in awakening the inmates.

As the door opened, a figure presented itself which it would be difficult to describe. He (for it proved to be a man) bore all the marks of having worked hard, lived hard, and being about to die hard. He was tall, but had become as gaunt a skeleton as Dr. Edson, and his countenance was of that ghastly hue which so strongly marks the subjects of that horrible disease, the fever-and-ague. After exchanging the usual salutation of 'Good morning,' he asked:

'Strangers, is you from Galveston?'

'Yes,' was the reply.

'Is you some of Lafitte's people, and has you anything to trade?'

'Yes.'

'Well then, if you takes my advice, you'll keep a sharp lookout, for the militia is up and a'ter the captain and men of one of your vessels that's up here stowed away.'

The morning being damp with a heavy dew, the officers had on pea-jackets, which concealed all traces of uniform; and Lieutenant McIntosh quickly discovered that with a little management the privateer and her prize was in his grasp. He asked if the militia had captured any of the men.

'No, they was a little bit too quick for 'em. You see, strangers, I gi'n 'em a hint that the militia was coming; the captain of militia come a'ter me, but this d—d fever-and-ague had me so

fast I could n't go; so I ax't him what was the muss, and he told me that so soon as he could get men enough he was to take the pirates, for he called 'em all pirates.'

'Well, do you know what has become of the captain of the privateer and his crew?'

'No, I do n't; but I guess, a'ter they hid the vessels, they tried for Galveston; but I think they will have a scramble 'fore they catch it.'

'We would like very much to find the vessels, so that we could put our goods in them, for we have only open boats, and then we will go away until all is quiet again.'

'Well, strangers, I'll tell you; but I guess it's worth a trifle, as no one but me knows.'

'Oh, yes; you shall have ten dollars. Is that enough?'

'Yes.'

'Well, now, where are they? Be quick, for we must get out of the way of your militia.'

'You must pull up the river for a quarter of a mile, on the left-hand side; look sharp, and you'll see a bayou; the mouth is little, but it grows big a'ter you're in. You goes into this 'ere bayou, and I guess a'ter you pull 'bout say one mile and a quarter, you'll see the privateer.'

'Can you get the vessels by land from your house? and how far is it?'

'Oh, certain you kin; it is 'bout a mile, I guess.'

'Have you a horse?'

'Yes, he is there, back of the house.'

'Now walk down to the landing, and see our boats and our goods.'

This was soon accomplished; but when it was discovered that the boats contained no goods, the astonishment of this ignorant man may be imagined, but not easily described. Lieutenant McIntosh now called to one of his best men, directing him to get his musket and come ashore, which was promptly done. He then ordered him to take charge of the countryman, to allow him to get on his horse, but to take the bridle himself, and make him go to the vessels, and if he arrived first, to remain until he came. The distance was soon pulled in the boats, and the vessels found. Their sails were unbent, running-rigging unrove and put below; and, from the cocoa about the deck of the prize-schooner, it was evident that her cargo had been taken out. All

hands were soon employed in bending sails and reeving rigging; and in the mean time the man arrived, leading the horse by the bridle, and the ghostly-looking informant astride of him.

'Now, Sir,' said Lieutenant McIntosh, 'you have so far directed me correctly; tell me where the cargo has been concealed, and I will let you go back to your house. I see there has been a cargo of cocoa landed, and if I do not find it, you shall be taken to New-Orleans and be tried for dealing with pirates.'

'So help me GOD, stranger, I do n't know where the *cuckeho* be; but this I tell you, them pirates, as you call 'em, axt me for some bulls'-hides to cover up the goods; and they tell'd me when they come to take 'em away, they would pay me; so I gi'n 'em twelve. You see, if I had n't gi'n 'em they would taken 'em, any how.'

Satisfied that the cargo was somewhere in the neighborhood, Purser Fanning was directed to take one of the boats and pull close to the shore down the bayou, and wherever he saw any thing which would indicate that a landing had been made, to examine, and if successful in finding the cargo, to fire a musket, and immediately to commence with his crew to remove it as near the water for re-shipping as practicable. The report of a musket was soon heard, and the prize-schooner being now ready, the privateer was taken in tow, and with a light breeze proceeded down about half a mile and anchored a short distance from the shore, to take again aboard the cargo discharged from her but a few days before. The informant in the mean time had been permitted to return alone to his house, with a promise never again to have any thing to do with pirates. The taking the cargo on board, consisting of bags of cocoa and Peruvian bark, was soon accomplished; the anchor was weighed and the vessels towed out of the bayou by the boats, when they commenced descending the river, and about night-fall reached the spot they had left so early in the morning. The men had had a most fatiguing time since they had left the schooner, and Lieutenant McIntosh determined to let them have a comfortable night's rest. They were therefore ordered, so soon as they had their suppers, to go below in the vessels; but they preferred the decks, swearing they had 'seen too many d—d centipedes and scorpions in the bloody crafts to venture under deck.' At day-light the next morning some of the men bent the sails and rove the rigging of the privateer, while

the others were cutting a good load of wood to ballast her, and which would be very useful in the *Lynx*.

About mid-day, every thing being prepared, sail was made down the river, and on the third day after, the expedition reached the *Lynx* without accident. No time was to be lost, for the captain yet hoped to get possession of the men who had been chased ashore in the *Sabine*. The schooner with the prizes were soon once more underway, and stretching southerly for the *Memento* river. On arriving there, the two prize schooners were sent in and anchored, there to remain under charge of an officer and a few men, until the return from Galveston, for which port sail was made with all despatch.

The weather had become exceedingly foggy, and the captain, supposing from the run that he must be off Galveston, hove to, in hopes that the fog would disperse. Toward meridian, a breeze sprung up which soon carried off the fog, and at the same moment revealed the harbor of Galveston and a sail-boat standing in for it. The schooner's position made it an easy matter to cut the sail-boat off; but this being discovered, she bore up and made for shoal water on the opposite side from the town of Galveston. The boats of the *Lynx* were soon in chase, but the boat was beached, and the men running for the woods before the schooner's boats landed; shore however was made, and one of the men captured, who, with the boats, was brought on board. The *Lynx* had anchored just outside Galveston bar.

The captured man was in a wretched condition. He had on no shoes, his feet were lacerated and torn with briars, and dreadfully swollen; his countenance was scarcely human, and he appeared almost unconscious of what he said or did. He was questioned by the captain, but nothing of importance could be elicited. The men were going to their dinner, and he was placed in one of the messes. In a very short time one of the men of the mess came to Lieutenant McIntosh and reported that the man he had ordered in their mess had eaten up every thing most voraciously and was craving more, and would kill himself if not stopped. The surgeon was directed to see what was the matter, and the fact communicated to the captain. The surgeon reported that, from some cause unknown to him, the man was certainly eating too much, and must be allowanced. This induced the captain to have a farther examination; and the poor creature was encouraged to relate who he was and where he came from. After a severe struggle, and with tears flowing from his eyes,

he acknowledged he was one of the crew of the boats chased ashore in the Sabine; that before they left the boats they had thrown all their arms into the river, and that they had been ever since working through the forest in hopes to reach Galveston; that they had arrived on the point opposite, the night before, and made a large fire as a signal, and that Lafitte had sent the boat we had taken to bring them over; that during the time, they were so driven by hunger that they had drawn lots who should be killed to sustain the rest; that it had fallen to the lot of an Italian, who was bled to death, and then devoured! For some days the bones were carried in their pockets and sucked for nourishment; and had they not arrived on the night they did, they were again to cast lots for another victim. So soon as these facts were known, Lieutenant Com. Madison sent his First Lieutenant to Lafitte, demanding the surrender of the men to him as pirates, who had been committing depredations on citizens of the United States. The officer was met by Lafitte at the usual place of landing with every demonstration of respect, and courteously invited to his dwelling, which was accepted. Lieutenant McIntosh now handed to Lafitte the written demand of his commander. It was attentively read, apparently some two or three times, when Lafitte observed: 'I am most truly happy that you have succeeded in tracing those vagaobnds thus far, and that you will be enabled to identify them by the capture of one of the crew. Assure your commander, Sir, that they will be all taken; they cannot now escape me; and it will afford me very sincere pleasure to deliver them over to him, to be dealt with as pirates. They have been acting under no authority from me, nor from any person connected with this government.' An officer was sent for, and directed to launch Lafitte's fast-pulling gig, and when manned, to report it. When this was done, Lafitte ordered him to proceed to the opposite side of the river, and to bring the men to him who had been chased on shore by the boats of the United States' schooner Lynx. He then turned to Lieutenant McIntosh, and said: 'It will be some time in the night before my boat will return, and as you have not more than time to get on board your vessel before dark, and as our bar is a dangerous one to those unacquainted with it, I will not detain you to answer in writing the letter of your commander, but will do so to-morrow when he sends for the men.'

Lieutenant McIntosh thanked him for his consideration and politeness; took leave, and regained the Lynx as night set in;

but some considerable danger attended his progress, for a brisk breeze springing up from the South, there was a bad sea on the bar and outside of it. He had been on board but a very short time, before the wind and sea increased so much as to make it necessary to get under-weigh and 'claw off' from the land. The wind continued to increase, and before morning had risen to a perfect gale. It was a night of much anxiety, for the schooner was on a lee-shore and had to be severely pressed to gain an offing. The weather for some five or six days prevented a return to Galveston; it finally moderated, however, and on a fine afternoon she made the harbor and stood in for her former anchorage. On looking with spy-glasses, something like a gallows was seen on the low sandy point which forms the entrance to the port, with something suspended from it. This certainly was not there when the schooner left, and whether intended for a mark, or what else, could not be decided, even after she had gained her anchorage. The schooner again at anchor, Lieutenant McIntosh was once more directed to take the largest of the boats, proceed in, and bring out the men, if they had been caught.

As the boat neared the low sandy point, it was discovered that what had attracted so much attention on first making the land, was a gallows with a body suspended from it. Again the Lieutenant was received with courtesy, and was informed that the men were all ready to be given up, with the exception of the leader, who was hanging on the gallows on the point. 'Tell your commander,' said Lafitte, 'I found the principal of this gang so old an offender, and so very bad a man, that I have saved him the trouble of taking him to the United States, and hung him myself!' He now read to Lieutenant McIntosh his communication to the commander of the Lynx, who politely asked, before it was sealed, if he might see the letter of Captain Madison to Lafitte, to which this was a reply. The request was acceded to: after reading it the Lieutenant stated that he regretted, after the kindness and courtesy which he had received from Captain Lafitte, and his exertions to procure the men, to decline being the bearer of such a letter to his commander. There were expressions which he deemed discourteous, and threats which would be offensive to that officer. Lafitte quickly replied, that nothing of the kind was intended; that it might arise from his imperfect knowledge of the language; and that if Lieutenant McIntosh would be so kind as to point out the exceptionable parts, he would with pleasure erase them. This was done, the letter copied, read aloud

and sealed, and Lieutenant McIntosh received it, and parted with Mr. Lafitte; not however until he had advised him by no means to attempt to cross the bar with his boat so deep as she then was with the additional men, if there was the slightest increase of wind, or if night should overtake him before he reached it.

It was getting late in the afternoon, and the weather was threatening; yet being anxious to get on board his vessel, the attempt was made; but night coming on, and finding a rough sea on the bar, it was abandoned, and the boat put about and again headed for the lights of Galveston. Lafitte had anticipated it, and had placed a look-out to report the return of the boat; and on meeting Lieutenant McIntosh, expressed his great pleasure at his return; for he said, 'Your boat would have been lost had you attempted to cross the bar with this wind. I hope you will feel perfectly at home with me; your men shall be taken good care of, and your prisoners secured until you can make another attempt to get on board.' The utmost hospitality was extended to the Lieutenant, and a free and easy conversation took place. Lafitte was asked if he did not sometimes feel himself embarrassed in his position, having around him men of every nation and of all varieties of character, and as it were alone in case of mutiny. He replied: 'Never in the least. I understand the management of such men perfectly, and I keep them under good control, as you have just seen, from the prompt manner in which your prisoners have again been ironed, and a sentinel placed over them, by my order. I know precisely how far to go, and I would have saved your commander all trouble in relation to these men if I had dared, for I would have hung every man of them. But I saw, Sir, that to have hung up another would have been the moment to have questioned my power. I made it appear that I considered the example sufficient, and retained my control.'

The next morning nothing could be seen of the Lynx. She had during the night been again driven to sea, and one week elapsed before she was again in sight. During this period every thing was done to make Lieutenant McIntosh's time pass most pleasantly. A fowling-piece with ammunition was at his command; the various pleasant games which are usually resorted to were introduced; and when the hour arrived for his departure, the officer felt that he had passed a pleasant week with no common man; with one who, if he had his vices had also his virtues, and who possessed a courteous and gentlemanly deportment, seldom equalled and not to be surpassed.

MORE INDIAN PLACE-NAMES IN LOUISIANA

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PREFATORY NOTE

My former study of the Indian place-names of Louisiana¹ contains a few errors, which I wish to correct in the present paper. I am, too, now able to give new facts about various names; and, what is more important, I can add other names that are still extant, as well as some that seem but recently to have fallen into disuse. I also include several names which, though ultimately from Indian sources, have become an integral part of the English vocabulary. Perhaps it may be well to say that I have not as a rule discussed those names which have long been obsolete, nor have I made any remarks, except in one or two cases, on street names of Indian origin.

In searching the surveys of the State for place-names, I have been materially aided by Miss Mary Graham and Mr. Carl Campbell, both of the State Land Office. My best thanks are likewise due to Mr. James A. McMillen, librarian of the Louisiana State University, and to Mr. Robert J. Usher, director of the Howard Memorial Library, for help on the bibliography of my subject; to my colleague, Professor H. A. Major, for information with regard to certain Creole-French terms; to Mr. G. H. McKnight, of Colfax, for data on the geography of Natchitoches parish; to Mr. A. T. Witbeck, of Shreveport, for numerous communications on the geology and early history of Northwest Louisiana; and to Dr. John R. Swanton, of the Bureau of American Ethnology, for valuable comments on the etymology of sundry place-names.

ADDENDA ET CORRIGENDA

The following references are to the pages of my previous study:

P. 3. Dr. Swanton kindly points out to me that the Atayos, who were mentioned by De Vaca in 1529, cannot be identical with the Adai; that De Vaca evidently had in mind the Tonkawan band called *Toho*.²

¹Louisiana State University Bul., February, 1927.

²Cf. Hodge, *Handb. Amer. Ind.*, II, 771 (1906).



Du Pratz's Map of Louisiana.

P. 16. An alternative name for Lake Cannisnia, in De Soto parish, is recorded on Lafon's map of 1806 as *Pisachie*. This name, which seems never to have become very popular, is of Algonquian origin and signifies "buffalo"; compare the Ojibway *pizhiki*, "buffalo," and the Menominee *pisaxiu*, "cattle."³ The "x" in the Menominee form has the value of "ch" in German *ach*. A slightly different derivative of the Indian word appears in the English translation of Marquette and Joliet's narrative of

³Archaeol. Amer., II, 340 (1836); Bur. Amer. Ethn., Rep. 14, Part I, 310 (1893).

1673: "We call the *Pisikious* wild buffaloes, because they very much resemble our domestic oxen; they are not so long, but twice as large."⁴

P. 23. For "Gariennie," read "Gaiennie."

Pp. 28-29. On the difficult name *Dorcheat* interesting information has been given me by Mr. S. L. Herold as well as by Mr. A. T. Witbeck. The account of the Freeman-Custis exploration of Red River in 1806 contains, it seems, the following statement with respect to Bayou Datché, now known as *Dorcheat*:

"On the morning of the 11th they reached a place where a branch of the river or bayou ran rapidly in from the north. Being informed by Mr. Touline, a French gentleman born in the Caddo nation and who now accompanied the party of that nation to render his good offices, that it was absolutely impracticable to pass the great raft in boats of any kind; as neither red nor white men had attempted it for fifty years before, and that this was the only communication through which the passage could be effected; they here left the river and entered the bayou. This bayou is by the Indians called Datché (which in their language signifies a gap eaten by a bear in the log), from the circumstance of the first Indian who passed this way seeing a bear gnawing a log in this place."

Touline's interpretation of the old form of *Dorcheat* would be trustworthy if it were sustained by the vocabulary of the Caddo dialect. Unfortunately, no Caddo word expresses anything in the remotest degree resembling the sense of the phrase "gap eaten in a log by a bear"; nor, yet more unfortunately, is the syntax of the Caddo tongue concise enough to render in two syllables the equivalent of the English translation. The Caddo for the "bear eats a hole in the log" would run somewhat like this: "Dughamako yako saha na-oustse dahughnouehsa"—literally, "hole log in bear he eats." Touline's analysis seems to bear the misleading earmark of Indian tradition: indeed, the Indians themselves may utterly have forgotten the real source of the name.

P. 34. The name *Kisatchie* is found as *Cossachie* in Sibley's *Report from Natchitoches in 1807*, pp. 30, 31, 32, 47.⁵ The form *Cossachie* confirms my derivation of the name from Choctaw words that signify "Reed river."

⁴French, *Hist. Coll.*, 285 (1850).

⁵Museum of the American Indian, 1922.

P. 36. The identity of *Manchac* with the Mobilian *imashaka*, "rear entrance," is rendered more plausible by my discovery of the form *Mashake*, the name of a stream, on the "Draught of the R. Ibbeville" that accompanies Pittman's *European Settlements* (1770). The first "a" in *imashaka* is nasalized.

P. 42. I see now that Gatschet connects the Caddo *Nataché* with the Choctaw *Natassé*, "to press," "to squeeze."⁶ This etymology impresses me as being highly improbable; in all likelihood the two words have nothing whatever to do with each other.

P. 55. For "steam," read "stream."

P. 58. For "admires," read "admirers."

P. 59. That *Talla Bena* signifies "Palmetto camp" is verified by the words *Bina chito*, the Choctaw for "Big Camp," which Carlos Trudeau wrote on a survey of the vicinity of Bayou Talla Bena. The survey is dated January 14, 1804.⁷

Pp. 59-60.—My statement as to the time when Tallulah, in Madison parish, received its name needs correction. Shortly before the outbreak of the Civil War the chief engineer of the old Vicksburg, Shreveport & Texas railway named a station on this road *Tallulah* after his boyhood home in Georgia. The charter for the railroad was granted on March 20, 1856. Mr. Linton W. Stubbs, who was a division engineer on the Vicksburg, Shreveport & Pacific railroad more than forty years ago, gave this bit of information to Mr. A. T. Witbeck; and Mr. Witbeck kindly transmitted it to the author of this paper. A slightly different version of the naming of Tallulah is related by Mr. W. M. Murphy, in "The History of Madison Parish" (*La. Hist. Quar.*, January, 1928, p. 42).

P. 67. It is not necessary to derive *Wauksha* from the Potawatomi *wauktsha*, "fox." A more plausible source is the Choctaw *wakcha*, "forked." Of the two main branches of Bayou Wauksha, in St. Landry parish, one bears the name *Little Wauksha*.

P. 69. My colleague, Professor B. H. Singletary, reminds me that the phrase "Six Mile creek" should be changed to "Calcasieu river."

⁶*Trans. of the St. Louis Acad. of Sci.*, V, 54 (1888).

⁷See Book D, No. 4 G, p. 108.

LIST OF ADDITIONAL NAMES

Acasa

In 1805 Sibley makes mention of Lac Occassa, which was situated in the southern part of Natchitoches parish.⁸ Some other forms of the name are the following:

Lake Acassa: Survey T 7 N—R 6 W, La. Mer., 1809.

L. Cassi: Darby's map of 1816.

L. Cassim: Tanner's map of 1820.

Lake Acasa: Survey T 7 N—R 7 W, La. Mer., 1848.

The bed of the lake has long been dry. The pronunciation and the meaning of the name seem to have been forgotten. Nevertheless Sibley's form *Occassa* may be regarded as a synco-pated derivative of Choctaw *oka hushi*, "waterfowl," or, perhaps more reasonably, of Choctaw *okak asha*, "swans are there,"—that is to say "Swan lake." The wild swan was formerly common in Louisiana. But I am not sure that the name is of Indian origin. Possibly the source is the French *Lac d'Acacia*, "Locust-tree lake."

Amite

Several modern writers affirm that the name *Amite* commemorates the friendly reception which the French settlers on the Amite river received at the hands of the Indians. The word *Amite* certainly looks like a corruption of *amitié*; and towards the end of the eighteenth century *amitié* no doubt came to be considered the source of the name by some of the inhabitants of Louisiana. I have not succeeded, however, in finding any support of this view in the writings of the early French explorers. Iberville, Joutel, Pénicaut, Dumont, La Harpe, Charlevoix—none of these even mention the river, if one may except the occurrence of the name on the Bellin map in Charlevoix's work; nor does Du Pratz, fond as he was of commenting on the etymology of place-names, throw any light on the source of *Amite*. He describes the stream merely as "la Riviere d'Amité, qui est assez grosse, & qui a un cours de soixante-dix lieues dans un fort beau Pays." The name is given as "Mité R." on the Bancroft copy of Delisle's map of 1718, as the "Amit" by D'Anville (1732-1752), as "R. Amitte" by De Crenay (1733), and as the

⁸*Annals of Congress*, 9th Cong., 2d sess., col. 1093. Washington, 1852.

⁹*Histoire*, I, 153 (1758).

"Amite R." by Bellin (1744). In 1765 Ross records the "Amit River or Lamique," a phrase in which the latter form, whether it be dialectal French for *L'Amitié* or simply an error on Ross's part, appears too late to merit serious consideration.

Inasmuch, then, as neither the early explorers nor the early cartographers apparently connect the name of the river with *amitié*, I have reached the conclusion that the modern writer who seeks in *amitié* the source of the relatively late form *Amite* is deceived by a verbal resemblance between the two words; that the name of the river is not derived from French *amitié*, "friendship," but was in all probability corrupted by the French explorers from the Choctaw adjective *himmita*, "young,"—a term not strikingly novel in view of the curious designations that Indians have bestowed on watercourses. When *himmita* had once become corrupted to *Mité*, the further shift to *Amité* naturally took place through a misunderstanding of the word-group *La Mité*, the vowel of the definite article being taken as the first letter of the proper name. From *Amité* to *Amitié* was then but another false step. In a somewhat similar fashion *Calcasieu*, "Crying Eagle," has erroneously been identified with French *quelque chose* or *quelques choux*; *Malbancha*, "the Mississippi river," with French *male bouche*; and the first element of *Chappepeela*, "Hurricane river," with French *chapeau*. The first "a" in the Choctaw *Malbancha*, I should observe, has approximately the sound of the vowel in *gull*.

The view that *Mité* arose from *himmita* becomes all the more reasonable when one considers the large number of aphetic forms that have descended from Indian names. Thus a glance through my former study reveals the fact that the Indian sources are each longer by an initial syllable than are the words *Cahoula*, *Chafalia*, *Catahoula*, *Chacahoula*, *Chappepeela*, *Chickamaw*, *Chickima*, *Chinchuba*, *Colapissa*, *Mentou*, and *Tchefuncta*. In contrast with these distorted forms, the earliest French names are so well preserved that one is rarely in doubt as to their origin. *Chandeleur*, *Dauphine*, *Maurepas*, *Pontchartrain*, and a host of other names attest the early explorers' familiarity with the French tongue. An educated Frenchman like Delisle would never have sanctioned such a form as *Mité* if he had known a current French word to be its source. Evidently, neither Delisle nor any other French cartographer was aware of the origin of the name *Amite*.

Finally, it is significant that none of the local pronunciations of *Amite* ever retain the final vowel sound of French *amitié*. There seem to be two pronunciations, almost equally common. In the first pronunciation, for which my authority is Mr. Harry D. Wilson, commissioner of Agriculture and Immigration, the "A" has the value of the vowel in *ham*; the "i," that of the vowel in *meet*. In the second the "A" has the value of the vowel in *tame*; the "i," that of the vowel in *mitt*. In both pronunciations the stress seems to me to waver between the first and the second syllable, according to the well-known law of rhythm.

The Amite river, rising in the southwestern part of Mississippi, drains several Louisiana parishes and empties into Lake Maurepas. At Head of Island the river forms a small fork called *Petite Amite*, which I have often heard pronounced as if it were the English word-group *Pit Amit*.

The town of Amite is situated on the Illinois Central railroad, sixty-eight miles north of New Orleans. Mr. Harry D. Wilson kindly informs me that the town was named *Amite City* about 1852, but that subsequently it dropped the second part of the name. The population is estimated at 2,500.¹⁰

Arizona

Arizona, a hamlet situated in the central part of Claiborne parish, was incorporated on March 1, 1869.

Egli regards the name *Arizona* as a Spanish adaptation of the Pima Indian *a-ri*, "small," and *son*, "spring."¹¹ Hodge, however, derives it from *Arizonac*, probably "small springs" or "few springs," the name of a former Papago rancheria, in Sonora, Mexico, just below the present southern boundary of Arizona.¹² The name has nothing to do with Spanish *arida zona*, "arid zone."

Mr. J. M. Oakes, postmaster at Arizona, writes to me that he does not know who selected the name for the hamlet.

Athao

The Little, or Athao, river is a small, deep stream in the southeastern part of Natchitoches parish.¹³ *Athao* is evidently intended for *Natao*, the name of one of the eight Caddo tribes

¹⁰Cf. Fortier, *Louisiana*, I, 38 (1914); Mrs. Percy McCay, in the *New Orleans Times-Picayune*, January 23, 1927.

¹¹*Nomina Geographica*, p. 53 (1893).

¹²For further details, see Hodge, *Handbook*, I, 87.

¹³See *Survey T 7 N-R 6 W*, La. Mer., 1809.

that Iberville observed on his trip up the Red river in March, 1699,¹⁴ The Natao are technically known as the *Adai*, a term which is derived from the Caddo *hadai*, "brushwood."¹⁵

Mr. G. H. McKnight, who is thoroughly familiar with the country about Little river, informs me that he cannot remember ever having heard any one use the Indian name of the stream. The local pronunciation of *Athao* seems to have been forgotten. But *Athao* is still recorded on the map of Louisiana issued in 1916 by the Department of the Interior.

Biloxi

Biloxi bayou connects Lake Eugenie with Lake Borgne, in the parish of St. Bernard.¹⁶

Biloxi is a Mobilian corruption of *Taneks âya* or *Taneks âyadi*, the name by which the Biloxi Indians called themselves. The whole name signifies "First People."¹⁷ In Louisiana the "o" of *Biloxi* is generally pronounced like the "u" of *luck*.

"As early as the year 1699, the French, under Iberville, built a fort on the east side of the Back Bay of Biloxi, and called it Fort Maurepas, the site of which is now in the town of Ocean Springs. A little later, in 1701, under orders from home, the colony was removed to Mobile Bay, the capital of French Louisiana, was again located at Old Biloxi in 1718, and in 1721 the colony was removed to the present city of Biloxi and from there [1722] to New Orleans."¹⁸

Chetimaches

The designations that once kept alive the memory of the Chitimacha tribe seem almost all to have passed away. *La Fourche des Chétimachas*, for example, has been simplified to *La Fourche*, and *Lake Chetimaches* of Darby's map (1816) has become the *Grand Lake* that waters the parishes of Iberia, St. Mary, and St. Martin.

The tribal name, however, survives as that of a street in Donaldsonville, where, according to Mrs. Charles E. Coates, of Baton Rouge, it is written *Chetimaches* and is pronounced as if it were spelled *Chetty-matches*. In this pronunciation the initial

¹⁴Margry, *Mémoires*, IV, 178.

¹⁵Powell, in *B. A. E.*, Rep. 7, p. 45 (1891).

¹⁶"Biloxi" is the spelling on *Survey T 12 S-R 17 E*, St. Helena Mer., 1846.

¹⁷Swanton, in *B. A. E.*, Bul. 47, p. 5 (1912).

¹⁸Dunbar Rowland, *History of Mississippi*, II, 746 (1912).

"ch" sounds like that in *chin*; the last two syllables are exactly like the English word *matches*. The stress is on the syllable next to the last.

Gatschet says that the name *Chitimacha* is of Choctaw origin, and that it signifies "they have" (*imāsha*) "cooking vessels" (*shuti*).¹⁹ On the history of the tribe, consult Swanton,²⁰ and for variant forms of the name, see Hodge.²¹

Chihuahuaita

Chihuahuaita was the name of a station on the Woodworth and Louisiana Central railway in Rapides parish; but the tracks have been removed, and consequently the station no longer exists. Mr. James C. Bolton, of Alexandria, La., who has kindly furnished this information, is not aware of the reason why the name was selected. That it must at any rate have been suggested by *Chihuahua*, the name of the Mexican city and state, requires no proof.

In reply to my request for aid on the etymology of *Chihuahua*, Señor Luis Castillo Ledón, director of the Museo Nacional, Mexico City, promptly wrote that the word signifies "place of manufacture"; that it is composed of the Nahuatl *Chihua*, "que equivale á hacer, y hua, que significa que tiene." The word ends of course in the diminutive suffix *-ita*, as in Spanish *bonita*.

Chihuahuaita takes the chief stress on the high tense "i" of the syllable next to the last, and a secondary stress on the first "hua." One may acquire the pronunciation of the name by adding a stressed *-ita* to the usual American pronunciation of *Chihuahua*.

Chinquapin

Chinquapin is the name of a gully in Allen parish.²²

Gerard derives *chinquapin* from the Virginia Renape *chinkomen* or *chinkwemen*, "rattle-nut," the component elements of the word being *chinkwan*, "a rattle," and *-men* or *-min*, "nut." The suffix, however, has been replaced by *-pin*, "a root."²³

¹⁹A *Migration Legend of the Creek Indians*, I, 44 (1884).

²⁰B. A. E., Bul. 43, pp. 337-360 (1911).

²¹*Handbook*, I, 286 (1906).

²²See *Survey T 4 S—R 4 W, La. Mer.*, 1886.

²³*Amer. Anthropol.*, N. S., IX, 89.

Colewa

Bayou Colewa, in the parish of West Carroll, is shown on Survey T 20 N—R 9 E, La. Mer., 1852. In the same year the name of the bayou is given as *Coelwa*, on Silas Taylor's survey marked T 22 N—R 10 E. A branch of the bayou by the name of *Little Colewa* is sketched as early as 1838, on Survey T 19 N—R 9 E, La. Mer. Finally, the name is corrupted into *Cou-larra* by some recent maps of Louisiana.

The evidence that I have obtained with regard to the history of this name is conflicting. Mr. W. F. Derrick, postmaster at Pioneer, La., thinks that the name is a corruption of *Coldwater*. On the other hand, Mr. S. H. Campbell, postmaster at Oak Grove, La., asserts that the name was first used by a band of Choctaws, who had rested on the bank of the stream while they were on their way from Mississippi to the West. One of these Indians, known to the settlers as Indian Joe, is said to have remained on the bayou for several years. This information was given to Mr. Campbell by Mr. James B. Drake, a Confederate veteran of eighty-three years, who has lived in Oak Grove all his life.

Assuming the word to be of Choctaw origin, I am, nevertheless, at a loss as to its exact signification. Perhaps it is derived from Choctaw *kalowa*, "notched," "jagged," which may possibly have been used in the special sense of "crooked." This is the most plausible interpretation that I can suggest. A definitive solution, however, is quite difficult by reason of the fact that the first part of the name points to Choctaw words as widely divergent in meaning as *oka*, "water," *okla*, "people," *coi*, "panther," and *kali*, "a spring of water." The "a" in *kali*, one should observe, has nearly the sound of "u" in *sun*. The second part of the name, if the derivation from *kalowa* seem far-fetched, may be connected, though doubtfully, with Choctaw *laua*, "many, much, abundant."

Mr. C. H. Neely, of Oak Grove, assures me that the name is pronounced *Colewah*. In this form *Cole* sounds like *coal*, and *wah* like the first two letters of *wad*. The stress is on the first syllable.

Faquetaïque

Faquetaïque is the name of a polling precinct and a prairie in St. Landry parish, I am informed by Judge Gilbert L. Dupre, of Opelousas. The name is pronounced like a French word of the form *Faquitaïque*, with the stress on the final syllable. A few variant forms are:

Prairie Faketike: Ludlow's map of 1818.

Prairie Faquetyke: Lockett's map of 1882.

Prairie Faquataïque: Hardee's map of 1895.

Faquetaïque is derived from Choctaw *fakit tek*, "turkey-hen." Prairie *Faquetaïque* must evidently have been a favorite haunt of the wild turkey. This game bird is still found in some parts of the State.

Hickory

The popularity of the name *Hickory* is attested by its appearance in three different places on modern maps of Louisiana. The State has a Hickory Valley in Winn parish, another hamlet called *Hickory* in Avoyelles, and a Hickory branch, a stream that crosses the southern boundary of Beauregard parish and joins the west fork of Calcasieu river.

Hickory Valley was so designated in 1874 because of the heavy growth of hickory trees in its vicinity. A post office, but no town, is there. For these facts I am indebted to Mr. S. R. Newsom. The hamlet of Hickory in Avoyelles parish had a population of but 50 in 1920. Hickory branch, which Lockett in 1873 called "Hickory Cr.," received its present name on a survey of 1879, earlier surveys seeming to indicate merely the course of the stream.

The word *hickory* is derived from the Virginia Renape *pakahikare*, "it is brayed," a term applied to an emulsion which the Indian women prepared from the nuts of several species of hickory, and used to flavor soups and boiled vegetables. The name *hickory* was transferred by white settlers from the emulsion to the tree.²⁴

²⁴See Tooker, *Amer. Anthropol.*, N. S. VI, 689; Gerard, *ibid.*, VII, N. S., 237-238; Hodge, *Handbook*, I, 547.

Mangrove

Mangrove bayou is an affluent of Calcasieu lake in Cameron parish.

The first element of *Mangrove* is adopted from Spanish *mangle*, "mangrove," which is derived in turn from the Arawakan language of Haiti. The second element is due to confusion with English *grove*.²⁵

Mongoulois

Lake Mongoulois, situated in the parish of St. Martin, was named in memory of the Mugulasha, an Indian tribe that lived with the Bayougoula above Bayou Lafourche, on the west bank of the Mississippi. *Mongoulois* is evidently a French coinage of the same kind as *Danois*, *Hongrois*, and *Iroquois*, in which the suffix *-ois* serves the purpose of indicating a race name. I have observed no variant spellings, a survey made in the winter of 1832-33 giving, like Hardee in 1895 and the War Department's map of 1925, only the form *Mongoulois*. The French pronunciation of *Mongoulois* is generally so much altered that the first syllable rhymes with *song* and the last syllable loses its "w"; the middle syllable sounds like French *goût*. The stress is shifted to the first syllable.

The tribal name *Mugulasha* is composed of the Mobilian *im*, "their," *ougoula*, "people," and *asha*, "are there." It signifies "people of the opposite clan."²⁶ In 1699 Iberville writes the name *Mougoulachas*;²⁷ La Harpe gives it as *Mongoulacha*.²⁸

Opossum

Opossum creek is a tributary of the Comite river, in the parish of East Feliciana. The name of the creek is shown on the War Department's map of Southern Louisiana (1915), revised to 1925.

Opossum is adapted from the Virginia Renape *apasum*, "white" beast, an aphetic and dialectal form of *wapasum*.²⁹ The Choctaw name for the opossum is similar in meaning: *shukata*, literally "white hog," from *shukha*, "hog," and *hata*, "white."

²⁵See Friederici, *Hilfswörterbuch*, pp. 59-60 (1926).

²⁶Consult Swanton, *B. A. E.*, Bul. 43, pp. 279-281 (1911); Hodge, *Handbook*, Part II, 24 (1910).

²⁷Margry, *Mémoires*, IV, 113, *et passim*.

²⁸*Jour. Hist.*, pp. 9, 10, 13 (1821).

²⁹Chamberlain, *Amer. Anthropol.*, N. S., III, 677; Gerard, *ibid.*, N. S., IX, 100.

The first "a" in *shukata*, as well as that in *hata*, has the sound of "u" in *hut*. For variant forms of *opossum*, one should consult the *New English Dictionary*.

The early French explorers of Louisiana refer to the opossum as "rat de bois." Thus in 1687 Joutel gives a description of certain animals, which he compares to rats, though he does not use the exact term "rat de bois." Nevertheless he clearly has in mind the opossum.³⁰ Subsequently, in 1721, Charlevoix applies the name "Rat de Bois" to an animal that can be no other than the opossum;³¹ and in 1807 Robin says: "Je rencontraï un opossum, que dans le pays on nomme *rat de bois*."³²

My colleague, Professor H. A. Major, whose mother tongue is French, is perfectly familiar with the term "rat de bois"; but he cannot remember ever to have heard the word *opossum* in the French dialects of Louisiana. Littré cites *opossum* and the variant "rat des bois"; for the latter there seems to be no authority in Louisiana French of the present day.

Pascagoula

Two bayous by the name of *Pascagoula* are found in Louisiana, the one in Caddo and the other in Red River parish. Mr. J. Fair Hardin, of Shreveport, points out to me that the former is included in the rough sketch of Red river made by Captain Henry M. Shreve in 1833. This bayou is shown on *Survey T 15 N—R 12 W, La. Mer., 1833 and 1834*.³³

The latter bayou, as I learn from Mr. A. T. Witbeck, was recorded by John Dinsmore in 1814, on *Survey T 12 N—R 9 W, La. Mer.*

The Pascagoula Indians formerly resided on the Pascagoula river, in the southern part of Mississippi, where they were encountered by Iberville as early as 1699. An admirable summary of the subsequent wanderings and fate of this small tribe is given by Hodge;³⁴ interesting details of its history are furnished by Swanton.³⁵

³⁰See Margry, *Mémoires*, III, 287.

³¹*Histoire*, III, 134 (1744).

³²*Voyages*, II, 337 (1807). Cf. Du Pratz, *Histoire*, II, 94 (1758).

³³Cf. Hardin, "The First Great River Captain," the *La. Hist. Quar.*, January, 1927, map facing page 48.

³⁴*Handbook*, II, 205 (1910).

³⁵B. A. E., Bul. 43, pp. 302 ff. (1911).

The legend of the mysterious music said to be heard on the Pascagoula river forms the subject of a newspaper article by Frank A. Lewis.³⁶

Pascagoula is derived from the Mobilian *paska ougoula*, "bread people," a term that is the equivalent of the Choctaw *paska okla*. In *paska* the first "a" sounds like "u" in *hut*. One of the Pascagoula chiefs went by the significant name of "Big Bread."³⁷

Pocosin

On Clinch Grey's survey of 1821 Pocosin creek is shown as a tributary of the Tangipahoa river in the southeastern part of Tangipahoa parish. On the War Department's map of Southern Louisiana, revised to 1925, the name is spelled *Pocasin*. In Vernon parish there is also a Pocosin creek, which empties into Bayou Anacoco.

Gerard derives *pocosin* from the Virginia Renape *pakwesan*, "a swamp," "a place covered with shallow water," *pakwesan* being a compound of the stem *pakw-*, "to be somewhat dry," and *-sen*, "put" in the condition expressed by the stem.³⁸ Tooker gives a different interpretation, which is quoted by the *New English Dictionary*, under *pocosin*.³⁹ As the name of a river in Virginia, the word is said to occur as early as 1635 (*NED*).

Quebec

Quebec is a hamlet in Madison parish, about six miles by rail west of Tallulah. As the name of a plantation, *Quebec* is found before the Civil War, I am informed by Mr. W. M. Murphy, of Tallulah. The name of the city from which that of the hamlet is taken is written *Kébec* by French authors of the first half of the seventeenth century. *Québec* is generally thought to be of Algonquian origin: compare, for instance, Micmac *kebek*, "strait," "narrows." The name was applied to the Canadian city because of its site at the place where the St. Lawrence river becomes narrow.

Mr. Pascal Poirier has recently suggested what I take to be a less convincing etymology. He thinks that the Indians may

³⁶See the New Orleans *Times-Picayune* for Sunday, Dec. 27, 1925.

³⁷*Amer. State Papers*, Pub. Lands, II, 791. G. & S.

³⁸*Amer. Anthropol.*, N. S., X, 101 ff.

³⁹*Cf. Amer. Anthropol.*, N. S., I, 162 ff.; *ibid.*, N. S., I, 790-791.

have borrowed the word from the French explorers; that the second syllable is French *bec*, "beak," "promontory," and that the first syllable may perhaps have lost a final "l." See "Recherches sur l'Origine du Mot de Québec," in *Mémoires de la Société Royale du Canada*, Vol. XX, Sec. III, Sec. I, Mai 1926, pp. 93-98.

Raccoon

Raccoon Pass is the name of a strip of water that separates Little Bird island from the southeastern shore of Plaquemines parish. There is also a Raccoon pass off the southern shore of Lafourche parish.

Raccoon is a derivative of the Virginia Renape *arakun*, an abbreviated form of *arakunem*, "He scratches with the hands" the bark of the trees.⁴⁰ Captain John Smith says (1607-1609): "There is a beast they call *Aroughcun*, much like a badger, but vseth to liue on trees as squirrels doe."⁴¹

It is now interesting to learn that the French of Louisiana have abandoned the term by which their forefathers designated the raccoon. That this term was long ago considered inapt becomes clear from a remark made by Du Pratz. "Le chat sauvage," he says, "a été mal à propos ainsi nommé par les premiers François, qui ont été à la Louisiane; car il ne tient du Chat que la souplesse, & ressemble plutôt à la Marmote."⁴² Instead of "chat sauvage" the Creoles of Louisiana use the word *chaoui*, I am told by my colleague, Professor H. A. Major. *Chaoui* is unmistakably a loan from the Choctaw or Mobilian *shawi*, "raccoon." The incorrect spelling *chatoui*, recorded by Fortier, is doubtless the result of a typographical error.⁴³

Sodo

Sodo or *Soda* is the name that was applied to a large lake near the present site of Shreveport. This body of water was formed not earlier perhaps than 1770 or 1780, I am informed by Mr. A. T. Witbeck. It has been drained by a large canal.

⁴⁰Gerard, *Amer. Anthropol.*, N. S., IX, 102.

⁴¹*Travels and Works of Captain John Smith*, I, 355 (1910).

⁴²*Histoire*, II, 93 (1758).

⁴³*Louisiana Studies*, p. 184 (1894).

Fortier notes that the name *Caddo lake* has often been given to a chain of lakes extending above Shreveport and consisting of Clear, Cross, Ferry, Sodo, Swan, and Roberta.⁴⁴ What is usually known as *Sodo* or *Soda lake* appears in 1827 as *Sheodo* on Burch and Lee's map of Red river. Captain Henry M. Shreve spells the name in ways varied enough to arouse the suspicion that he had no idea whence it is derived. Beginning with *Soder* in 1833, he uses *Soda* in 1835 and follows the latter with *Sota* in 1839.⁴⁵ La Tourrette's map of 1846 has the form *Sodo*, whereas some later maps prefer the spelling *Soda*.

The first authoritative statement as to the source of this name is made by Sibley, who writes in 1805 that the Caddoques "live about thirty-five miles west of the main branch of Red river, on a bayou or creek, called by them Sodo, which is navigable for perogues only within about six miles of their village, and that only in the rainy season. They are distant from Natchitoches about one hundred and twenty miles, the nearest route by land, and in nearly a northwest direction. They have lived where they do now only five years."⁴⁶

This assertion of Sibley's effectually disproves the view that *Sodo* may be a corruption of the proper name *De Soto* or of some French phrase like *chute d'eau*, "waterfall." *Sodo* is of Caddo origin. Possibly it may be connected with Caddo *shoehdaugh*, "hunter, warrior"; compare Burch and Lee's form *Sheodo*.

Tigouyou

Martin gives *Tigouyou* as the name of a bayou that enters Lake Pontchartrain on the side of the city of New Orleans, higher up than Bayou St. John.⁴⁷ Darby's map of 1816 and Tanner's of 1839 show a Bayou Tiguyou on the lake shore in what is now St. Charles parish, whereas the Graham-Tanner map of 1834 places Tigouyou correctly in Jefferson parish, farther to the east and much nearer to Bayou St. John. Though the name is still familiar to some of the older residents of New Orleans, the stream is now called *Indian bayou*, I have learned from Captain Joseph P. Loga, of New Orleans. The Captain pronounces the name

⁴⁴*Louisiana*, I, 145 (1914).

⁴⁵See J. Fair Hardin, in the *La. Hist. Quar.*, January, 1927, pp. 49 ff.

⁴⁶*Annals of Congress*, 9th Cong., 2d sess., col. 1076. Washington, 1852.

⁴⁷*History of Louisiana*, p. 14 (1882).

like a compound of English *tiger* and *you*, with the stress on the first syllable.

It is now interesting to observe that there was on the shore of Lake Pontchartrain an ancient portage to which La Harpe, in his account of Iberville's departure from the Bayougoula and Mougoulacha, assigns the name *Tigonillou*. La Harpe's words are: "Le 10 [October, 1699] il partit de ces villages. A quatre lieues au-dessous il arriva au portage de Tigonillou, qui rend au lac, et qu'on a depuis nommé la ravine du Sueur."⁴⁸ Le Sueur was a Canadian soldier and explorer. The name *Sueur R.* on Ross's sketch of 1765 shows that the portage must have been in the vicinity of the present site of Frenier, in the parish of St. John.

If we will turn again to the passage from La Harpe, we shall be struck at once by the resemblance between La Harpe's *Tigonillou* and Martin's *Tigouyou*; for the "ll" of the former name undoubtedly has the value of "y," and the "n" may well be a misprint for "u." *The resemblance between the two forms is actually so close as to arouse the conjecture that the Indians used the name *Tigouyou* for more than one bayou on the shore of Lake Pontchartrain.

The origin of *Tigouyou* is unknown. Dr. Swanton suggests to me that it may perhaps be composed of Choctaw *tiak*, "pine," and *ahoyo*, "where a search was made." I should not hesitate to derive the first element of the word from Choctaw *iti*, "forest," and the second from Mobilian *ougoula*, "people," if I could find other instances in which a French *y*-sound has replaced the Mobilian "l."

Tuscumbia Bend

Tuscumbia Bend was the name of a curve in the old main bed of the Mississippi river, on the eastern boundary of Madison parish. This name, though recorded in *The Century Atlas of the World* (1899) and on some recent maps of Louisiana, is no longer used, I am assured by Mr. W. J. Hossley, mayor of Vicksburg. *Tuscumbia* is, however, the name of a river in Mississippi and of a town in Miller county, Missouri. The same name, too, is borne by the capital of Colbert county, Alabama. *Tuscumbia* was a

⁴⁸*Jour. Hist.*, p. 21 (1831). On Le Sueur, cf. Margry, *Mém.*, VI, 55 ff.

*La Harpe, *Op. Cit.*, p. 27, has *Tigouiclou*.

Chickasaw chief who resided near the present site of the Alabama town; its name perpetuates his memory.

Tuscumbia is clearly a popular corruption of the Choctaw or Mobilian war-title *tashka abi*, "Warrior Killer." Such a title was usually conferred on a warrior as a token of his valor in battle. The etymology of the name becomes all the more plausible when one remembers that the first "a" in *tashka*, "warrior," and the "a" in *abi*, "killer," have approximately the sound of the vowel in *sun*.⁴⁹

⁴⁹Cf. Peter A. Brannon, "Some Peculiarities in Alabama Names," *Alabama Dept. of Archives and History*, Bul. for April, 1926, pp. 54-55.



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**DOCUMENTS CONCERNING BIENVILLE'S LANDS IN
LOUISIANA, 1719-1737**

SEVENTH (and last) INSTALLMENT

Translated from the Book of Concessions, Louisiana Historical
Society, pp. 170-171 by

HELOISE H. CRUZAT

EDITORIAL NOTE

The concluding entry in the Sixth Installment carried a certificate recapitulating the distribution of Bienville's Lands on the New Orleans side of the River. The present installment covers a recapitulation of the land on the Algiers side of the River. This document bears no date but there is no doubt of its authenticity or that it was prepared by or for Bienville contemporaneously with the other documents heretofore printed in this series and for the same purpose.

HENRY P. DART.

DOCUMENTS CONCERNING BIENVILLE'S LANDS

I

TRANSLATION FROM THE TEXT

STATEMENT OF THE CONCESSION IN ALLODIUM GRANTED BY THE COMPANY OF THE INDIES TO MONSIEUR DE BIENVILLE ON THE OPPOSITE SIDE, BELOW NEW ORLEANS

Names of the settlers and their acquisitions	First Concessions and changes	Quantity of Land	Quantity of Clearing	Quantity of Sowings	Buildings	Annual Quit-Rents by Arpent	Lots and Sales
Monsieur de Bienville	Has reserved to himself as his Domain a lot of forty-nine arpents frontage by a league in depth, his concession must have the same depth everywhere.	49 arpents frontage by 80 in depth.	460 arpents cleared.	Provisions of the country.	Two buildings on the ground of brick, a partition pigeon-house, a store of posts in the ground and twenty-one negro quarters.		
Mr. Provenche occupies two adjoining lots, one of ten arpents and the other of eight.	This first lot was conceded by Mr. de Bienville Dec. 18, 1724, to one Cardinal; Cardinal's widow had sold it to one Baldic, after his death, Provenche bought this lot by adjudication March 16, 1737.	10 arpents frontage by 40 in depth.	100 arpents cleared.	Idem			
	The second lot was conceded to the same Provenche by my said Mr. de Bienville July 1st, 1724.	8 arpents frontage by 40 in depth.	90 arpents cleared.	Idem	A house on the ground.	Six livres rent, two capons and two days labor as service due, per arpent.	One thirteenth of the sale price in case of change.
Mr. Carriere occupies a lot of nine arpents.	He bought these nine arpents from one Augustin Langlois on the 15th of August, 1734. Langlois had acquired six arpents by concession of Mr. de Noyan, holding by procuration of my said Sieur de Bienville, January 20, 1725; he had bought the three others from one Fleurié, to whom they had been conceded likewise Oct. 28, 1724.	9 arpents frontage by 40 in depth.	60 arpents cleared.	Idem	A house on the ground, a barn, a poultry house, six negro quarters.	Idem	Idem
Mr. Raguet owns six adjoining lots, making together thirty-six arpents and six perches.	The first lot, which measures six arpents was conceded by Mr. de Bienville Oct. 28, 1724, to one Hemery, who had sold it Dec. 1, 1728, to Sieur Rivart, who died and Sr. Dubreuil bought the lot by adjudication Sept. 19, 1733; he resold it to Sr. Raguet, on the 4th of April, 1735.	6 arpents frontage by 40 in depth.	18 arpents cleared.	Idem	A house on the ground and three negro quarters.	Idem	Idem
	Sr. Raguet bought the second lot, measuring seven arpents and six perches from the same Sr. Dubreuil, April 4, 1736. Dubreuil had bought them August 18, 1733, from one Etienne Langlois, to whom Mr. de Noyan under procuration as aforesaid had conceded them in Jan., 1725. The 3d of the 3 arpents also bought by Sr. Raguet April 4, 1736, from Sr. Dubreuil who had them from one Fleurié to whom it had been conceded Oct 28, 1724.	7 arpents 6 perches frontage by 40 in depth.	22 arpents cleared.	Idem	A saw mill and 10 negro quarters.	Idem	Idem

ETAT DE LA CONCESSION EN FRANC ALEU ACCORDEE PAR LA COMPAGNIE DES INDES A MONSIEUR DE BIENVILLE AU DESSOUS DE L'AUTRE COSTE DE LA NOUVELLE ORLEANS

Noms Des Habitants Et leurs acqui- sitions	Premieres Concessions et mutations	Quantite du Terrain	Quantite du Defriché	Quantite de Semences	Batiments	Redevances annuelles per arpents	Lots Et Ventes
Monsieur de Bienville	S'est réservé pour son Domaine un terrain de quarante neuf arpents de face sur une lieue de profondeur. Sa concession doit avoir la meme profondeur partout.	49 arpents de face 80 de profondeur	460 arpents de Defriché	Vivres du pays.	Deux Batiments sur sol'e une grange en Brique, un Col-pigeonnier en Col-lombage un magasin de potteaux en terre et vingt caze a negres.		
Mr. Provenché occupe deux ter- rains de joignant un de dix arpents et L'autre de huit.	Ce premier terrain a esté concédé Par Monsr de Bienville le 18 Xbre 1724 au nommé Cardinal, la veuve de Cardinal l'avoit vendu au nommé Bal-dic le 10 8bre, 1731 Baldic étant mort, Provenché acheta ce terrain a l'adju-dication le 16 Mars 1737. Le second terrain a esté concédé au même Provenché par mondt Sr de Bienville le 1er Juillet 1724.	10 arpents de face 40 de pro-fondeur	100 arpents de Defriché	Idem	Une maison sur solle.	Six livres de Rentes, deux Chapons et deux corvees par arpents.	Le treizieme du prix de la Vente en cas de muta-tion.
Mr. Carriere oc- cupe un terrain de neuf arpents.	Il a acheté ces neuf arpents du nommé Augustin Langlois le 15 Aoust 1734. Longlois en avoit eu six par concession de Mr de Noyon fondé de procuration de mondt Sr de Bienville le 20 Janvier 1725 il avoit acheté les trois autres du nommé fleurie a qui il avoit été concédé de meme le 28 8bre 1724.	8 arpents de face 40 de pro-fondeur	90 arpents de Defriché	Idem	une maison sur sol'e une grange un pouaille six caze a negres.	Idem	Idem
Mr. Raguet possède six terrains de suite, faisant En-semble trente six arpents et six perches.	Le premier terrain qui est de six arpents avoit été concédé par Mr de Bienville le vingt huit Octobre 1724 au nommé Hemery, qui l'avoit vendu le 1er Xbre 1728 au Sr Rivart celui cy mourut et le Sr dubreuil acheta le terrain par adjudication le 19 7bre 1733, il l'a Revendu au Sr. Raguet le 4 Avril 1735. Le Sr Raguet a acheté le second terrain qui est de sept arpents et six perches du meme Sr Dubreuil le 4 Avril 1736. Dubreuil les avoit acheté le dix huit Aoust 1733 du nommé Etienne langlois a qui Monr Denoyan fonde comme ey dessus les avoit concède e vingt Janr 1725. Le 3e des arpts achete aussy par e le Sr. Raguet le 4 Avril 1736 du Sr dubreuil qui l'avoit eu du nomme le fleuriet a qui il avoit été concède, 28 8bre 1724.	6 arpents de face 40 de pro-fondeur	18 arpents de Defriché	Idem	un moulin a planches et 10 caze a Negres.	Idem	Idem
		7 arpents 6 perches de face 40 de pro-fondeur.	22 arpents de Defriché	Idem			

BOOK REVIEW

*Varina Howell, Wife of Jefferson Davis, By Eron Rowland.
Macmillian Co.*

In this truly remarkable volume, Eron Rowland has achieved a great and brilliant success. The plan of her work is built upon the foundation of a great patriotic purpose, a brave and noble one, and she has erected upon it a volume which comprises not only the biography of a distinguished Southern woman, but in addition a sketch of the South as it existed in her day. She gives us a fresh angle of the political discord that culminated in the appeal to war, the failure of the war, and consequently the desolation of a great country, both its life and people, and the ensuing tragedy of a "Lost Cause," if a cause for which a people made the supreme sacrifice, can ever be called or deemed lost.

The young Southern girl, Varina Howell, is traced from her good Anglo Saxon parentage in the East, with a meticulous care that is not lost upon the reader. Beautiful of face, and figure, proud and independent of spirit, with exceptional intellectual qualities, profiting eagerly by the good classical education afforded her, embracing ardently, as all Southern girls of that age did, the politics of her people and their courage in defending them, she seems indeed more a creation of romance than the author, perhaps, intended.

She was in truth a symbol of the womanhood of the South of her day, at least, so the women of the South will accept her. The description of her life in the plantation home "Briarfield" happy and free in heart and mind; her meeting with one to whom her life was to be mated; the growth of their mutual love, and their enduring faith are told with a simplicity and grace that may be said to be Eron Rowland's own.

Jefferson Davis, himself has never been mirrored to his compatriots in a more winning reflection. We see him as he appeared to his bride, and as she saw him; majestic, dignified, uncompromising in his bold, fearless eloquence; surpassing in oratory the idolized Sargent Prentiss, in the beauty and strength of his well developed manhood, before disappointment and humiliation had furrowed the noble face and stricken the stal-

wart form. Their life in Washington when her husband was Secretary of War, the citations from the young wife's memoir, vibrating with excitement at meeting the great men of the nation, John C. Calhoun, Sumner, Seward, Douglas, Crittenden, Tombs are perhaps, the best pages in the volume.

The days in Briarfield, after leaving Washington, until they passed from their beautiful plantation on to the political convulsions that heralded the Confederacy, the selection of Davis for the crucial post of its president, when as the author says, the good purpose of abolition reform was changed to the hideous weapon of politicians, Eron Rowland describes it as it is her gift to be able to do so, in the masterful style she exhibited in her work on Andrew Jackson and the Battle of New Orleans.

The story of Varina Davis is to be continued in a second volume, which it is safe to predict will equal, if it does not surpass this first one, and will confirm the judgment that Eron Rowland stands, in truth, in our literature in preeminence as a writer and artist, with no competing rival.

GRACE KING.



EDITOR'S CHAIR

BY HENRY P. DART

**WHICH WAY
HISTORY?** Judging by the space currently given in the newspapers to articles touching the history of Louisiana, one would be inclined to say there is a popular demand for light upon that subject. The question is whether this new product is meeting the demand in a proper historical spirit.

A noticeable feature of this literature of the day is the stress laid on worn out phases of the ancient story and a neglect of the developments on kindred subjects during the past ten years. The labors of specialists and scholars and the results of recent researches into the ancient archives are not reflected in any of the articles that have fallen under our notice.

There are certain facts in the history of Louisiana so well established it seems a pitiless sacrifice of time to rethresh the old straw. From this aspect the public is still being gorged with the "romance" and starved on the material issues of life in Louisiana during the past two centuries.

An avalanche of words smothers and destroys the patience of the searcher after truth, who longs to know something of our history other than the fundamentals treated in Martin and Gayerre, and in the works of Miss King.

There is no dearth of new material covering both the ancient and modern history of Louisiana, and it is accessible in many books, and in the publications of Historical Societies. The Quarterly in every issue makes a continuous and valuable contribution to these studies. It surely is the duty of one who would write on Louisiana to be familiar with the last word on the subject.

Without elaborating our theme, let us ask who among current writers has visualized the growth and changes in this country during such well marked periods as the territorial era 1803-1812, or done more than skim the surface of the subsequent years. The political battles, the social, domestic, and economic changes, the throb and beat of modern life are surely of abiding interest. Kendall and Chambers working in limited time and space, have lifted the curtain on some of these things, but apparently they have no disciples.

Our written and printed source material on these eras is abundant and easily accessible. It contains the substance of material things that this generation is calling for. There is besides a living interest, that is full of practical application and far from being devoid of "romantic" inspiration. The Quarterly believes that there should be a change of purpose. The new writers should recognize their opportunity and begin to tell us what happened in those tremendous years after the Cavalier ceased from troubling and his successors in life and government began to build a modern state.



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RECORDS OF THE SUPERIOR COUNCIL OF LOUISIANA
XXXIX

January-June, 1743
(Continued from April, 1928)

The index in this issue is made up partly from the card index prepared several years prior to 1922 by William Price, Esq., but with many additions by Heloise H. Cruzat and supervision by the Editor.

Jan. 1, 1743. List of notes which Mr. Henry promises to collect for Mr. Daussant in the latter's absence. Total amount, 1425 piastres. Signature canceled and memorandum subjoined. "Rendu compte" (settled).
1 p.
Memorandum of notes received by the Clerk for collection.

Another memorandum of like character, Mr. Henry has received of Mr. Daussant a certain note of 1300 piastres for collection. Reference to a salvage affair herewith connected, but the script is nearly extinct. Signature canceled; subjoined remark: "Rendu compte" (settled).

Jan. 2. "de St. Gilles to his dear brother". Writes by the ship which is to carry Mr. de Vaudreuil. Mainly on family matters. The writer longs to see his brother back from "that wretched country, where he never had a moment of contentment." Signs of a campaign forward in the direction of Germany or Lorraine.
3 pp.
Letter from Versailles.

Jan. 2. 2 pp. Captain Jean Couprie of the ship Dragon, from the Cape, had bargained with Jacques Larche for 500 pieces of heavy timber; since J. L. is remiss, let him be cited to render satisfaction.
Suit for breach of contract to furnish timber for cargo of the Dragon.
Approved: Salmon.

Jan. 4. All their old master bakers are dead: Master Penain, Master Durenclau, Master Rançon. "I send you by the boy of Mr. Laroche jaquelin two little jars of preserves. I might say to you that we are again in family of a little daughter."
Letter of Bertais to Mr. Encelain (Ancelain) (Rochefort).

Jan. 5. Captain Jean Pailleau of La Reine des Anges of la Rochelle, claims 300 livres on a draft payable by Cariton (in specie).
1 p.
Suit on draft.

Jan. 7. **Andre Laurent Argoet** owes Mr. Lanoux 250 livres for board and "money which he has lent me in my need. I promise to pay him in the course of this month."

Slip.

Acknowledgment of debt.

Jan. 10. **Nicolas Adam and Joseph Le Court** ask leave to sell the goods movable and immovable of late Louis Roy, their stepfather, to pay debts as ordered in will.

1 p.

Petition to sell effects of a succession to pay debts.

Referred to Procureur General who requires that the widow be cited to discuss her rights with heirs and creditors.

Jan. 11, 1743. Judge Salmon assents.

Jan. 10. 3 pp. **To her brother Mr. Encelin**, merchant at N. O. New Year's greetings and confidential comment on friend and foe. Mr. Brunet should be regarded as a trusty friend.

Letter of Marie Enselin (Rochefort).

Jan. 12. **Copyist's note:** This date is assuredly Jan. 12, 1743. The month is so blurred and scratched as to be illegible, the line above is eaten away.

6 pp.

Another letter from same to same.

Letter of Marie Ancelain, from Rochefort, in the same strain as preceding letter but more caustic of censure. Particular warning to beware of Mr. Marafret, who is going to settle in N. O.

Jan. 12. **Judgments** rendered in following cases:

No. 915.

3½ pp.

Session of the Superior Council of Jan. 12, 1743.

1. Sr. Palluau, Captain of the ship "La Reine des Anges" plaintiff, vs. Sr. Cariton, defendant: Cariton having declared that he has no funds, has however offered to pay Madam Bastier 300 livres in Colonial money, the plaintiff to have recourse against Madam Bastier as he thinks proper. Costs compensated and Cariton is given certificate of his offer.
2. Sr. Palluau, captain of La Reine des Anges, plaintiff, vs. Madam Guerin, defendant: Council has adjourned the case eight days hence.
3. Sr. Coupnit, plaintiff, vs. Sr. Larche, defendant: Council has adjourned the case. Costs reserved.
4. Sr. Piemont, plaintiff, vs. Sr. Blanpain, defendant: The Council has rendered judgment in default against defendant and has condemned him to pay to plaintiff 503 deer-

skins as per note, following appraisement which will be made by experts. Defendant to pay costs.

5. Sr. Bancio Piemont, plaintiff, vs. Sr. Derbanne of Nachitoches, defendant: Judgment in default against defendant. Council condemns him to pay 2,349 livres, 5 sols, as per notes of Oct. 18, 1739 and that of Feb. 1st, 1740, and costs.
6. Sr. Piemont, plaintiff, vs. Sr. Lavergne, settler at Bustrad Creek: Judgment in default against defendant and Council condemns him to pay plaintiff the sum of 115 livres, 8 sols, 4 deniers, following memorandum of merchandise furnished and to bear costs.
7. Sr. Taillefer, officer, plaintiff, vs. Sr. Roman, defendant: Judgment in default against defendant and order to pay the plaintiff the sum of 192 piastres carried on face of his note and costs.
8. Charles Nicolas Tallifer, plaintiff, vs. Sieur Ignace Trepagnier, defendant: Judgment in default and condemns the defendant to pay plaintiff the sum of 86 livres as per his note with interest and to costs.
9. Sr. Claude Trenaunay de Chanfret, plaintiff, vs. Claude Germain as curator of La Cler, defendant: Judgment in default for non appearance and order to defendant to pay the sum of 568 livres, 11 sols, 6 deniers, to plaintiff in coin or otherwise following his note of Sept. 10, 1739, and to bear costs.
10. Sr. Gerard Pery plaintiff, vs. Pierre Sebey called La Pierre, defendant: Judgment in default against defendant, and order by Council to pay the sum of 660 livres as per memorandum presented by the plaintiff, and to costs.
11. Sr. Gerard Pery, plaintiff, vs. Jacques Corriou, carpenter, defendant: Judgment in default against defendant and order to defendant to pay sum of 290 livres, 10 sols, on the one side and ten round piastres, following his note of last March 3, and costs.
Signed: Salmon.
fleuriau.

- Jan. 17. **Pierre Germain** settler at Pointe Coupée, was
1 p. named executor, for the estate of late Therese
Raymond, but begs to be released inasmuch as
Declination of he cannot write and feels himself incompetent
Executor named for the office.
in note. Referred to Attorney General who ac-
quiesces and provides for conservation of
property in question.
- Jan. 17. **Captain Jean Palliau** of La Reine des Anges who
2 pp. was allowed recourse to Madame Bastier for
his claim in specie, asks leave to have her
cited.
Suit to recover Notice served on Jan. 21, 1743, to Dame
debt in specie Bastier, domiciled with Sieur Cariton her
as permitted in brother.
judgment of
12th inst.
- Jan. 18. **Barthelmy Lanoux** claims 250 livres of Andre
1 p. Laurent Argot for board and loan of money.
Action allowed. Notice to A. L. A. on board
Suit for board the ship St. Pierre, moored at the wharf of
and for borrowed this town, he being second pilot.
money.
- Jan. 18. **Joseph Le Kintrek** called Dupont, claims 1050
1 p. livres from Mr. Balquet, due on his note of
past July 20. Mr. B. is a surgeon Aux Alle-
mands.
Suit on note.
- Jan. 18. **Dry goods**, notions, playing cards, consigned to
4 pp. Mr. Ancelain, New Orleans, shipped by La
Charente, Chevalier d'Aubigny, and partly by
La Vestale, Captain Texier. Total bill, 5636
Invoice of livres. Signed: Boissard.
merchandise
from Rochefort.
- Jan. 19. **"Contents of a box coming from Le Puy."** Total
bill, 3773 livres. Subjoined memorandum giv-
ing computation in piastres. No particulars
of parties concerned.
Invoice on lace
from Rochefort.
- Jan. 19. **Merely** to advise consignment by La Charente.
Letter of Mr. A will see to removing the goods.
Boissard
(Rochefort) to
Ancelain in
New Orleans.
- Jan. 19. **Louis Le Clerc**, settler at Pointe Coupée and
2 pp. guardian of his daughter in connection with
the estate of late Thomas Raymond, begs for
one year's respite in order to meet the debts
thereon. No note by Council.
Petition for
extension of
time on debt.

Jan. 19.
No. 916.
1½ pp.

Session of
Superior Council
of Jan. 19, 1743.

Where were present MM. Salmon, First Judge; Prat, Raguet and Fleuriau.

Judgments in following cases:

1. Sr. Palluau, Ship Captain, plaintiff, vs. Madam Guerin, defendant: Case heard and parties reached agreement.
2. Sr. Poque, a German, plaintiff, vs. Lecler, called Belhumeur, defendant: Defendant sentenced to pay in kind a cow to plaintiff, appraised by experts and to costs.
3. Sr. Rocancourt, plaintiff, vs. Le Cler, defendant: Le Cler is right. Case is thrown out of Court and costs compensated.
4. Sr. Adam and Le Court, plaintiffs, vs. the Widow Roy defendant: Council orders parties to place the vouchers on the table, to render justice to whom due. Costs pending.
5. Sr. Lavergne, plaintiff, vs. Sr. de Chavannes, defendant: Judgment in default and order that defendant pay 164 livres cash to plaintiff, following his note of Feb. 5, 1742, and costs.

Referring to No. 4, at end of document is the following note: "and however by provision the movables and immovables carried in the inventory made after death of deceased Le Roy, shall be sold to the highest and last bidder, to wit, the house and site, cried three times at eight days distant in sequence, and the ordinary movables as usual, the returns thereof to be remitted to whom they may appertain. Signed only by Raguet.

Signed: Salmon, Raguet, Prat.

Jan. 21.
6 pp.

Letter to
Rasteau and
Son the elder
(La Rochelle).

To Mssrs. Elie and Paul Rasteau commanding the Lion d'Or. Some passages of interest save that most of the letter is in an endless chain style, unparagraphed and very fatiguing withal by dint of crabbed script. Pages 5-6 duplicated the last page in cramped script from "Comme. . ."

Preamble on stormy weather: N. W. nearing to S. E. S. W. and W. Afterwards high N. and N. E. winds arose. Reference to stringent Spanish trade regulations by way of the Court of Spain. Monsieur de Vaudreuil is expected to sail for Louisiana by La Charente. Letter of recommendation in favor of E and P. R. are

inclosed to him and to Judge Salmon. Home creditors must be paid: if drafts be not obtainable, settle in goods. But send no deerskins, no sale for them. Indigo market is also overstocked. Leave surplus collections if any with Mr. Assailly.

- Jan. 22.**
1 p.
Receipt for house rent.
Jacobo has received of Don Diego de Meyere 50 piastres for two months' rent on house of late Don Diego Lopez Montariez, for term expiring on Jan. 22, and Feb. 22d, 1743. . . . and Joseph Carino have received 25 piastres each of same account.
- Jan. 22.**
2 pp.
Petition to recover wages.
Andre Laurent Argot, second pilot of the Sy Pierre; Captain Abel sues to collect unpaid wages in order to settle the account of 250 livres with Lanoux.
- Jan. 23.**
3 pp.
Memorandum of deposited papers.
List of business papers which Mr. Daussant has left with Mr. Henry for action in Mr. D's absence. Canceled in September, 1744. Partly duplicated.
- Jan. 26.**
2 pp.
Suit to recover money overpaid and to restate the account between the parties.
Messrs. Assailly and Daunoy, successors to d'Asfeld's land grant show that Mr. Rocquigny received salary arrears in excess of correct amount; seeing that Mr. Pradel holds several of R's receipts in corroboration hereof. Let Mr. Pradel file the receipts and let excess be refunded.
- Jan. 28.**
1 p.
Notice by Sheriff to pay money.
Sheriff Chantalou notifies Michel F. Gerald (or Madame Andelain on his behalf) to pay to La Vergne or sheriff the quantity of 1413 piastres and also 25360 livres, 18 sols.
- Feb. 1.**
1 p.
Building contract.
Ignace Trepagnier strikes a bargain with La Fleur. I will do this and so La F. will do and thus, in a project of housebuilding. Terms, 250 livres and work to be completed in October.
- Feb. 1.**
1 p.
Contract for lumber.
I "**certify**" to owe to Sieur La Fleur the value of 800 stakes of 7½ ft. and 2 inches thick; for which I, Trepagnier, bind myself to have the trees felled before the sap flows, and I Trepagnier bind myself to have them delivered on the spot at Michaelmas: (Sept. 29th) in re-

turn the said La Fleur has let me have two pigs in payment of the said stakes. Wherefore, I, Trepagnier, bind myself to make the stakes and furnish them on the spot near the house of La Fleur. Done on the first of Feb., 1743.—Trepagnier. (La Feleur in this document).

Feb. 2.
3 pp.

Petition of wife
for authority to
act in her own
right in absence
of husband.

Marie Anne Fournier, wife of one Amelin, who has been absent from this Colony for about ten years, leaving Marie Anne unprovided and without word of himself, begs to be authorized to grant power of Attorney for collecting her avails from her deceased parents' estates in France.

Referred to Attorney General who approves.

Council so orders. Salmon, Raguet, Prat.

Feb. 3. Slip.
(Spanish)
Draft from
Vera Cruz for
payment of
money in
New Orleans.

Don y Bueno will please pay the bearer 200 piastres on account of Don Diego Meyere.

Antonio Lopez Matasco.

Received by De Meyere, Feb. 9, 1743.

Feb. 4.
1 p.
Suit on note.

Pierre Voisin claims 100 livres from estate of late Malon due on a note of Jan. 15, 1742. Let Mr. Barbin, Attorney be cited. Approved: Salmon.

Feb. 4.
2 pp.
Suit by attorney
of Vacant Estates
to recover money
due the late
Amyault D'
Auseville.

Nicolas Godefroy Barbin, Attorney for vacant Estates, claims 10300 livres on behalf of estate of late Mr. Amyault D'Auseville, from Mssrs. Henry and Ancelin, as shown by their joint note of past June 15.

Mr. Henry remonstrates that he was willing to further the settlement but Mr. A. held aloof.

Feb. 4. 1 p.
Suit to recover
money due
Malon Estate.

Nicolas Godefroy Barbin, Attorney of vacant Estates, claims 1000 livres on behalf of Malon estate, from Francois Haville and Jacques Carriere, due on their note of past June 26.

Feb. 5.
1 p.
Writ of summons.

Commanding Jacques Romant, settler aux Allemands, to pay 192 livres to Sr. Taillefer or to the Sheriff for him:

- Feb. 5. 1 p. **Widow of Francois Brunet**, formerly also Widow of Orléans, claims 150 livres from estate of late Antoine Malon on decedent's note.
Suit against a succession on debt.
- Feb. 5. 1 p. **Sheriff Augustin Chantalou** claims 30 livres from estate of Antoine Malon, as shown by voucher herewith.
The sheriff sues for fee.
- Feb. 5. 2 pp. **Royal Colonial Surgeon François Godeau** claims residue amount of 8 cords of wood, due on a still open contract with Mr. de Chavannes. Price was 13 livres a cord.
Suit to enforce contract for cordwood.
- Feb. 5. 2 pp. **Chevalier Jouachin (Joachim) de Gauvrit** sold a pair of negroes and their children to one Herbert of Pointe Coupée for 3500 livres. Only about 1100 livres have been paid.
Suit to seize slaves for balance of purchase price.
Let the negroes be seized and sold.
Action allowed. H. refuses and is warned of impending seizure of Jasmin, Fanchon and their children.
- Feb. 5. 2 pp. **Pierre Piquery**, baker, claims 21 livres from Couturier estate, and 40 livres from Denis estate for supplies furnished.
Suit by a baker for debt.
- Feb. 8. 1 p. **Jacques Roman** sentenced to pay 192 livres to Taillefer, begs to fall back on Desloriers, who transferred notes to J. R. and has long owed 146 livres on a note to J. R.
Suit for debt.
- Feb. 8. 1 p. **Pierre Jolly**, indigo grower, had won a suit with Mr. Dumanoir, but Mr. D. under pretext of appealing to France, has deposited the funds owing to P. J. with Recorder Henry, thereby depriving P. J. of his just earnings, the claim being a wage account. Let Mr. Henry deliver the money, 1973½ livres to P. J. Hearing allowed.
Petition to enforce judgment.
- Feb. 8. 2 pp. **List of legal papers** in the procedure between Dumanoir and Jolly. Mr. J. B. Faucon Dumanoir acknowledges receipt of the said papers for purpose of copying and promises to return them.
Memorandum of records.

Feb. 9. 3 pp.
Pay roll of
Schooner
Elizabeth.
Department of
St. Pierre.

Salary list of Captain and crew, (Capt. Charles Le Roy), ranging from 100 livres a month to 20 livres a month for Jacques Serrin, cabin boy.

Feb. 9.
3 pp.

Petition of
judgment
creditor
complaining
against the
Greffier for
negligence in
executing said
judgment.

Pierre Ancelain remonstrates at the tardy course of the law in his suit with La Vergne, who was sentenced to pay the petitioner 49200 livres in piastres of 5 livres. Mr. Henry, recorder, (Greffier) not only neglects attachment in favor of P. A. but is said to be intending to appropriate L. V's funds in satisfaction to a debt to himself. Mr. A. demands preference as first creditor and would have Mr. Henry bound to remit the sum in question.

Hearing allowed: Salmon.

Feb. 9.
1 p.

Petition to
arrest debtor.

Officer Charles La Vergne moves for the arrest of Michael F. Gerald, still negligent in paying the petitioner's awarded claims: 1413 piastres and 25360 livres, 18 sols. F. G. is without hearth and home in this town.

Judge Salmon orders F. G. cited. Feb. 11.—Notice to him in the house of Madame Ancelain, where he has his domicile.

Feb. 9.
4 pp.

Petition of
Recovery.
Suit by Prevost,
agent Company
of Indies for an
old debt due
the Company.

On the basis of accompanying statement of account by Messrs. Prevost and Barbin and inspected by Judge Salmon, Mr. J. B. Prevost, Company's Agent, claims 2027 livres, from the estate of the late baker Denis. Transactions date back to Isle Dauphine, Biloxi and early N. O. The original account ran to April 17, 1723, inclusively.

Feb. 11.—Referred by Judge Salmon to Attorney of Vacant Estates. Mr. Brabin answers through Mr. Voisin: ready to pay when so ordered and if duly discharged in the case.

Feb. 9, (2 pp). Duplicate of preceding, minus statement of account.

(Baker Denis was a settler at Pascagoulas).

Feb. 9. 2 pp.
Prevost, agent
of Company of
the Indies, asks
order on
successor of
Procureur of
Vacant Estates
to enforce
judgment against
his predecessor.

Company's Agent J. B. Prevost was allowed his claim of 3461 livres against estate of late Mr. Coustilha, but Attorney d'Auseville Procureur of Vacant Estates died before settlement. His successor Mr. Barbin declines to pay because the ruling was not in his name. Let the ruling hold good in case of Mr. B. Referred to Mr. B. Mr. Voisin answers for Mr. Barbin: ready to pay when so ordered.

Feb. 9.
2 pp.

Prevost, agent
of the Company
of the Indies,
seeks judgment
for the debt due
this Company
by Couturier,
deceased.

Company's Agent J. B. Prevost claims 7948 livres from estate of late Assistant Judge Joseph Francois Couturier.

Mr. Barbin, Attorney, will not pay because not sentenced to do so.

Referred to Attorney Barbin who answers through Mr. Voisin: ready to pay when so ordered.

Feb. 9, 4 pp. Repeating the matter of preceding record, and presenting a copy of the late Mr. Couturier's bonds which constitute the claim of 7948 livres. Bonds were dated Feb. 10 and 19, 1741.

3224	livres + and
4724	"
<hr/>	
7948	"

Same conclusion previously noted.

Feb. 9.
2 pp.

Prevost, agent
of the Company
of the Indies,
sues for debt due
the same.

Company's Agent J. B. Prevost claims 3390 + livres from estate of late Joseph Dannonneau alias Dusable. Memorandum of account in question, reverse page 4.

Referred to Attorney Barbin who answers he has in his hands only 1413 livres and thereon an injunction is pending for the sum of 200 livres. He is ready to pay the difference when so ordered.

Duplicate minus memorandum.

Feb. 9.
4 pp.
No. 917.

Session of the
Superior Council
of Feb. 9, 1743.

Where were de Salmon, first Judge; Raguet and Prat, councillors.

Decisions in following cases:

1. Defense and conclusions heard in suit of Taillefer vs. Roman, Council orders Jacques Roman to pay 56 livres. Costs divided between Roman and Des Lauriers.

(end of page, signature of Salmon.)

2. P. Voisin, plaintiff, vs. Barbin, Attorney of Vacant Estates defendant: Council orders Barbin to pay Voisin the sum of 100 livres, as per note, and to bear costs.
3. Between Sr. Voisin, plaintiff, vs. Sr. Voisin, defendant: Order to defendant to pay 60 livres, as per note to Pierre Voisin. Costs on defendant.
4. Augustin Chantalou, plaintiff, vs. Sr. Barbin, for succession of deceased Malon: Order to defendant to pay 301 sols, as per note of Nov., 1737. Costs on defendant.
5. Widow Brunet, plaintiff, vs. Sr. Barbin, charged with settling succession of deceased Brunet: Defendant to pay sum of 150 livres and costs.
6. Pierre Piquery, plaintiff, vs. Sr. Barbin charged with succession of deceased Cou-turier, defendant: Council orders defendant to pay sum plaintiff demands and costs.
7. Sr. Barbin, as Attorney of Vacant Estates, plaintiff, vs. Sieurs Ancelain and Henry, de-fendants: Council has condemned the de-fendants to pay solidarily the face of the note, interest thereon and costs of suit.
8. Sr. Gauvrit, plaintiff, vs. Sr. Herbert, de-fendant: Judgment in default against de-fendant, his obligation to be paid in eight days, in default of which the negro shall be seized and sold at auction. Costs on de-fendant.
9. Joseph Le Quintrek, plaintiff, vs. Balquet, surgeon, defendant: Judgment in default against defendant and
(end of page, signature of Salmon)
order that he pay price agreed on.
10. Sr. Palluau, plaintiff, vs. La Bathier, defend-ant: Council orders defendant to pay plain-tiff in coin at the weight of Santo Domingo and to costs.
Signed: Salmon, Raguet, fleuriau, Prat.

Feb. 10.
2 pp.

Letter of
Ancelain to
Boisnard.
(Rochefort).

Mr. B will please to attend to a draft payable to his order for 2000 livres. After deducting his commission he is to make certain purchases adapted to the Colony and address them to Mr. A. here dealing on behalf of Mr. Prévaux, Director of Mines.

- Feb. 10. 1 p. **Letter of Ancelain** to Boissard, containing abridged substance of the preceding. The draft is drawn on Mr. Prévaux, the father at Maubeuge.
Letter of Ancelain to Boissard.
- Feb. 11. 2 pp. **Inclosed** a procuration on behalf of a certain Dame at N. O. who has avails to collect at l'sle de Rhé and La Rochelle. Please answer at first opportunity: sailings are frequent by way of Santo Domingo.
Letter of Ancelain to Boissard.
- Feb. 12. 1 p. **Pierre Seben**, alias La Pierre, inn-keeper claims 615 livres from Jean Veillon, as shown by four transferred notes and receipts.
Suit for debt. Action allowed.
- Feb. 14. 1 p. **Andre Carriere**, now past his 22d year asks for letters authorizing him to utilize the property left by his late father, subject to a special tutor, whom it may please the Court to appoint.
Petition of a minor, aged 22, for emancipation. Referred to Attorney General who approves under proviso of no alienation before legal majority.
- Feb. 16. 4 pp. **Mr. Ancelain** aims to show that he is first creditor of La Vergne and that the sheriffs in the case "both creatures of Mr. Henry," purposely evaded seizure proceedings.
Intervention of Ancelain in suit between La Vergne and the sheriff for execution of judgment. Item: It were in contempt of the Council for Mr. Henry to cause funds to vanish pending a decision. Mr. H. still has the funds and he ought to be sentenced to pay Mr. A's claim of 4922 livres.
- Feb. 16. 2 pp. Council discharges Mr. Henry in virtue of his affirmed payments. Plaintiff may have recourse to La Vergne if he will. Costs divided.
- Feb. 16. 2 pp. **Between Ancelain**, plaintiff, and Henry, defendant: The Council has seen petition presented by Ancelain, defense and conclusions, and condemns the defendant to pay 4922 livres, 5 sols, 6 deniers in piastres at the rate of 5 livres, from the funds, now in his possession belonging to Sr. La Vergne, deposited in the Registry for the creditors. Division and assessment to be made by Sr. Assailly, and orders the
- Excerpt from the register of sessions of the Council.

plaintiff's demand otherwise thrown out of Court. Costs compensated.

Signed: By the Council.

Chantalou acting as Greffier.

Held as notified. Signed Henry.

Feb. 16.
No. 918.

Session of the
Superior Council
of Feb. 16, 1743.

Where were MM. de Bienville, Governor; de Salmon, Commissioner and Ordonnateur; Raguet and Prat, Councillors.

Judgements rendered in following cases:

1. François Goudeau, plaintiff, vs. Jean Baptiste de Chavannes, defendant: Council orders defendant to remit to Goudeau five cords of wood, as per agreement, within fifteen days. Otherwise they will be bought and paid for, wherever found by Sr. de Chavannes who will also pay costs.
2. Nicolas Godefroy Barbin, Attorney of Vacant Estates, in charge of succession of deceased Malon, plaintiff; vs. Sr. Jacques Carriere and François Haville, defendants: Judgment in default against defendants for non appearance and order to them solidarily to pay the sum demanded to plaintiff, whereon the Greffier shall be validly discharged. Costs on defendants.
3. Sr. Pierre Jolly, plaintiff, vs. Sr. Jean Baptiste Faucon Dumanoir, defendant: Judgment in default against defendant and order that funds deposited in Registry, be remitted to plaintiff, and the greffier to be validly discharged. Costs on defendant.
4. Pierre Ancelain, plaintiff, vs. Nicolas Henry, defendant: Defendant is discharged on his affirmation of having paid, as proven by receipt of Sr. La Vergne; said La Vergne to appeal as he sees fit. Costs compensated.
5. Pierre Seben, plaintiff, vs. Jean Veillon, defendant: Council orders the defendant to pay the sum of 675 livres, as carried on his note with interest thereon. Costs on defendant. Signed: Salmon, Raguet, Prat, fleuriau.

Feb. 18. 2 pp.

Prevost, agent,
sues for a debt
due Company
of Indies.

Mr. J. B. Prevost, Company's Agent, claims 15474 livres as privileged credit against Damaron estate, for slaves paid only by loan advanced to Mr. D. Mr. Trepagnier stood security. No note by Court.

Feb. 19. 2 pp. **Jacques Hubert Bellair** claims 800 livres from
Suit for debt Couturier estate, due on some indigo and corn.

Feb. 20. 1 p. **Sr. de la Vergne** shows that while he was absent
Suit to recover on his last trip to Pensacola, Mr. Ancelain
money alleged to took advantage of that absence by raising his
have been credit with La V. to 8000 livres, really twice
obtained im- the correct amount, or more. Let Mr. A. be
properly from cited.
plaintiff's agent.

Feb. 25. 1/2 p. **Dockyard Captain Don Augustin de los Reyes**
Dockyard receipt has received 50 piastres of Captain Don Diego
from Vera Cruz for four visits of inspection of Don Diego's
(Spanish). vessel arrived from Mobile.

Feb. 28,
2 pp. **Petition** to the Governor of Vera Cruz to recover
price of sale of packet boat.

Papers covering **Sr. de Meyere** of French nation unavoidably
efforts of de delayed at Vera Cruz for a year sold his pack-
Meyere to et boat which he had brought from Mobile
recover at Vera and would fain collect the money remaining
Cruz monies due to him by Jean Gomez and Joseph Mar-
due on sale sello, namely 1050 piastres so that he may
of boat. return by the frigate Le Dauphin. Nouguez.

Marginal note: The debt shall be paid
forthwith and procedure will follow in de-
fault. Signed: Salas.

March 4.
1 p. **Jean Gomez** has been seized of the quantity
of 1050 piastres by order of His Excellency
and at instance of Mr. de Meyere. J. G. lacks
ready funds and begs recourse to his debtors
as listed in a subjoined memorandum.

Marginal note: The designated parties will
discharge their several debits without delay.
Signed: Salas.

March 2.
1 p. **Where** were Mr. de Salmon, Commissioner of the
919. Marine and Ordonnateur Lafreniere, Fazende,
Raguet and Prat, Councillors.

Session of the
Superior Council
of March 2d, 1743.

Judgments rendered in following cases:

1. **Srs. Assailly and Daunoy**, plaintiffs, vs. **Jacques Rocquigny**, defendant: Council orders restitution of sum 697 livres, 14 sols, by the defendant, which sum he received in surplus as proven by six receipts signed by him in 1727, 1728, and to bear costs.
2. **Sr. Hubert Bellair**, plaintiff, vs. **Nicolas Godefroy Barbin** charged with succession of deceased **Sr. Couturier**, defendant: Ad-

journed to next session of Council to furnish defense. Costs pending.

3. Sr. Lavergne, plaintiff, vs. Sr. Ancellin defendant in default. Judgment against defendant in default and order that written demands be communicated for defense within eight days. Costs pending. Signed: Salmon, Fazende, Raguet, fleuriau, prat.

March 4.
No. 920.
2½ pp.

Session of the
Superior Council
of March 4, 1743.

As Procureur
of vacant
estates for
Dusable, Jullien
and others.

Where were present Mr. de Salmon, Ordonnaireur; and Messrs. Raguet and Prat, Councilors.

Judgments in following cases:

1. Between Jean Baptiste Prevost, Agent of the Company of the Indies, plaintiff, vs. Sr. Barbin, procureur of Vacant Estates, charged with successions of Dusable, defendant: Council has condemned said defendant to pay to plaintiff, in preference to all other creditors, the sum of 390 livres for full and complete of the negroes and effects which the Company delivered to the deceased following his obligation. Costs on said succession.
2. Sr. Prevost, plaintiff, vs. Sr. Barbin charged with succession of deceased Sr. St. Jullien, defendant: Council orders.
3. Sr. Prevost, plaintiff, vs. Sr. Barbin, in his official capacity, (au dit nom), charged with succession of deceased Mr. Coustilhas: Parties heard and conclusions of the Procureur General noted. Council has ordered execution of sentence rendered last May 8, against deceased Sr. D'Auseville and against defendant. Plaintiff to be paid 34660 livres in conformity with said sentence.
4. Sr. Prevost, in his official capacity, plaintiff, vs. Sr. Barbin likewise, in his official capacity, charged with succession of deceased Denis, baker, defendant: Council orders defendant to pay plaintiff the sum of 2027 livres, 16 sols, in payment of effects remitted to said Denis by the Company following the receipts, after which payment defendant shall be discharged.
5. Sr. Prevost, in his official capacity, plaintiff, vs. Sr. Barbin as Procureur of Vacant Estates: The Council orders defendant to pay 7948 livres, 15 sols, 5 deniers, due by Cou-

turier estate as shown by obligation signed Couturier Feb. 10, 1741, in preference of all other creditors, after which said Barbin will be validly discharged. Costs on succession. Moreover the said Barbin shall render account of said succession to the Procureur General of the King, who will furnish defense after having examined said account. Signed: Salmon, Raguet, fleuriau, Prat.

March 8. **Nicolas Le Roy**, jailer of the prisons of New Orleans, for citation of Pierre Bouchard, called La Vallee, whose note he holds for 153 livres, 2 pp. 10 sols.

Suit in New Orleans against a resident of Pointe Coupee. Service made in New Orleans on the Procureur General. This is the first instance of substituted service we have seen during this study.

Signed: Leroy.

Permit to cite, signed: Salmon.

March 9, 1743. Notice of citation served on Bouchard at his domicile by Sheriff Chantalou (huissier). Pierre Bouchard was a resident of Pointe Coupée and therefore the notice was delivered at domicile of the Procureur General, to Pierrot, the Procureur's slave. Document in good condition.

March 8. 1 p.
Suit on note.

Jailer Le Roy claims 125¼ livres of one Gruel on overdue note.

March 9.
2 pp.
Letter of Patin of Pointe Coupee to Dr. Prat.

Please answer in regard to scantlings, bespoken for Dr. Prat by Mr. Meuillion. Wood to be delivered, if ordered during May at latest. Dimensions given.

March 9.
2 pp.
Notice of demand to pay note.

To **Joseph Herbert** of Pointe Coupée at instance of Mr. Gaspart Pictet, merchant at New Orleans, Herbert to pay 358 livres due on his note.

Further notice and warning on March 16.

March 12.
Slip.
Memorandum of Mobile transactions.

Undersigned C..... certifies that Mr. Petit sold him a mare and two colts about ten or eleven years ago; that the bill was paid and that Mr. P. sold some pitch at the same time to Mr. La Rondinière.

March 13.
1 p.
Memorandum on brandy.

Don Juan Gomez (Vera Cruz) hereby certifies that he bought of Captain Meller of the packet boat from New Orleans, 29 casks of brandy and had to pay customs duty.

March 14.
2 pp.

Letter of Pedro
Dascubenia to
Mr. Genard Pery.

Doubtless G. P.'s brother has reported the doings of Mr. de Mayere who behaved like a very dishonest man all around. Complaint of customs duty which writer had to pay on some brandy that he bought of Mr. de M. The same de M. called G. P. a rascal and added that in case of prosecution by G. P. would thrust him a sword athwart his body. Brother of G. P. was present.

March 16.
(24881)
1½ pp.

Petition to
Superior Council
for permission
to sell real
property in
New Orleans.

By Jacques Leger, journeyman, for permit to sell lots owned by him in New Orleans in order to pay some debts. Signed: Leger March 16. Permit granted, signed by Salmon.

March 17. Notice to the public for the second time that Thomas Leger has a house and two lots, adjoining property of Mr. Prevost, for sale. Read and posted in ordinary places by Chantalou.

Document in good condition and plain script.

March 18.
1 p.

Suit on note.

Sergeant Jacques Lalouette bears a note of Mr. Jahan's for 100 livres, whereas J is refusing to pay and alleges various reasons. Let him be cited.

March 21.
3 pp.

Petition for
order of seizure
of funds in hands
of third person
in execution of
judgment against
creditor of
garnishee.

Charles Le Moine shows that he was put off in his awarded claim of 1120 livres against Mr. Lassus de Marsilly by default of funds in hands of Marsilly's Attorney. Since it would appear that Rev. Pierre, Capuchin, has funds of Marsilly, let the petitioner seize all sums owing to said L. de M.

Approved by Judge Salmon, subject to "risks and perils and fortunes" of whom concerned.

Sheriff Chantalou executes attachment against Sieur Sevet.

March 29. 1 p.
Memorandum on
heifer (Isle
Dauphine).

Jean Arnaud of Isle Dauphine certifies that about 19 or 20 years ago he gave to Jeannette Huet a heifer which yielded repeated increase; the latter multiplying thereafter.

March 29.
2 pp.

Memorandum of
deposited papers.

Blurred and faded list of documents turned over by Mr. Barbin. There is no explanation save heading Coustillas.

Copyist's Note: Council on March 4, 1743, at session of that day ordered Sr. Barbin to

render account of Coustilhas succession to the Procureur General of the King, who would thereafter furnish defense. Mr. Barbin must have carried out this order wherefore the list of papers turned over by said Barbin, Procureur of Vacant Estates, concerning Coustilhas succession.

April 1. 1 p. **He** informs the Council: "We are quite ready to remit to Mr. Marsilly or order the sum which he left in deposit with R. F. Pierre as soon as he remits to us the Rev. Father's note. But since he intimates that he has not dared to risk the note, neither intend we to risk paying the said sum twice. Besides Rev. F. Mathias is creditor to him for balance in settlement of their contract in regard to Mission slaves.

Letter to the the Councillors by Rev. P. Charles Capuchin Superior in reply to seizure of Lemoine. See the entry March 31.

April 1. 1 p. **Nicolas Cristina** received a transferred note of 183 livres on Mr. Roman from Mr. Jahan. R. declines to pay saying that J. is his debtor. Let both be cited to debate between them their arguments and sentence the responsible party to pay N. C.

Suit on note.

April 1. 1 p. **Jacques Cantrelle** lent a dugout about two months ago to Champagne, tavern keeper, who lost the dugout and refuses to pay up. Canoe's capacity was 15 barrels.

Petition to recover dugout.

N. B.—Pirogue and voiture are used equivocally in this document, a point not always noted in the dictionaries but implicit in Colonial American French.

April 3. 4 pp. **A detailed** and circumstantial grievance with Sieur Lavergne, over a timber contract with incidental complications of victualing, keep of oxen and a delusive accomodation in cordwood. The fastidious oxen eschewed Spanish moss for an alleged improvement on hay. Redress besought.

Letter of J. B. Dechavannes to "Our Lord of the Superior Council of the Province."

April 3. 1 p. **Sr. de Lavergne** bears two notes and moves for collection, of 2500 livres and 200 livres.

Suit on notes. Notice acknowledged by Jahan.

April 3.
2½ pp.

J. B. Prevost
as agent of
Claimant in
Santo Domingo
sues the
defendants,
charging fraud.
See same matters
April 8 post.

J. B. Prevost Company's agent and now acting as Attorney for Mr. Julien Gaune de Montlouis, trustee for Vacant Estates, in the circuit of the Cape Santo Domingo, shows that Mr. Montlouis has made a maritime agreement with parties Gerald Fitz Maurice and Charles Ray. The latter parties acting fraudulently, fleecing Montlouis to the sum of 40000 livres. Le Roy being now in port, let him be cited and let the two parties be criminally prosecuted. Judge Salmon orders hearing of Le Roy and seizure of his goods.

April 6.
2 pp.

Petition to sell
real estate.

Joseph Le Court asks leave to sell a house at the corner of St. Peter and Bourbon Streets, in the interest of certain minor children. The house is falling into decay and repairs will be costly. Referred to Attorney General, who orders expert viewing and report.

April 19. So ruled by Council: Salmon, Raguet, Prat and fleuriau.

April 6.
2 pp.
No. 921.

Session of the
Superior Council
of April 6, 1743.

Where were present: MM. Salmon, first Judge; Mr. de la lande, assessor, Commissioner at Mobile; de Lafreniere, Fazende and Prat.

Judgments rendered in following cases:

1. Between Nicolas Le Roy, plaintiff, vs. Nicolas Bouchand, called L'Eveill , defendant: Judgment in default against defendant and sentences him to pay 141 livres, 12 sols, carried on his note of Sept. 9, of last year and to pay costs.
2. Between Jacques Cantrelle, plaintiff, vs. Champagne, defendant: Council orders that pirogue be appraised by Verret, expert appointed in this case, and on his report justice will be done. Costs pending.
3. Charles Roy, plaintiff, vs. Gruel, defendant: Judgment in default vs. defendant who is sentenced to pay the sum of 125 livres, 5 sols, carried in his note of last August seventh, and costs.
4. Between Sr. de Chavannes defendant and plaintiff, vs. Sr. de La Vergne, defendant: Plaintiff sentenced to pay costs and suit thrown out of Court.
5. Between Sr. de la Vergne plaintiff and defendant and Sr. Ancelain, also plaintiff and defendant: Council having heard both par-

ties and account having settled by Sr. Assailly, has sent the parties to account again and come to a new agreement before said Assailly, who will report thereon, in order that justice be done. Costs pending.

6. Sr. Joseph Carriere and Andre Laurier, plaintiffs, vs. Sr. Louis Tisserant (Tixerant) defendant: The Council having seen the Letter of emancipation and heard the conclusions of the Procureur General orders that Sr. Tixerant render account to plaintiff within two months. Costs pending.
7. Jacques La Louet, plaintiff, vs. Sr. Jahan, defendant: Council has thrown plaintiff's demand out of Court and orders that note mentioned remain in Registry. Costs on plaintiff. Signed: Salmon.

April 6.
2 pp.
Decision of
Superior Council.

Between Nicolas Le Roy and Gruel. G. to pay 125 $\frac{1}{4}$ livres. Notices served on May 6, May 20, June 6. G. refuses to pay and is warned of consequences.

April 6.
2 pp.
Suit by wife for
separation of
property on
account of
illtreatment by
husband and
wastefulness of
common property.

Marguerite Scaffer, wife of Jean Abraham, settler Aux Allemands, complains of her husband's cruelty and wastefulness, wherein she furnished "annexed certificates" from Post Commander and the Surgeon. She moves for property separation and the appointment of a tutor for her minor son. Referred to Attorney General who orders election of a tutor and an injunction to keep the peace. Abraham also to be heard in the case and Marguerite granted protection in view of her great age, adds the Council confirming the conclusions of the Procureur General.

April 6. 2 pp.
Notices to pay
judgment.

Notice to Bouchard on May 6, again May 20 and on June 6, 1743, with warning of consequences:

April 8.
12 pp.
Supplemental
petition in the
Prevost suit of
April 3 (see
that entry).
See further
below.

A review of Mr. Julien Gaune de Montlouis' affairs with Captain "Girard Fitzmaurice" usually resident in St. Michael's Parish, Bordeaux, and Captain le Roy, usually resident at Nantes Parish of St. Nicolas, but now at New Orleans. Concluding to the same intent as former petition, and calling for indemnity of 40000 livres.

Communicated by Sheriff Chantalou to Le Roy.

(Stained and rather irksome cramped script.)

April 9.
4 pp.

Petition to
suspend seizure
levied on above
case.

Louis Geoffroy, Manager of the cargo Elizabeth. Seized against Le Roy monstates that such action is irrelevant, because goods are in charge of LeG. Let seizure be suspended. Judge Salmon orders hearing and no notice served on Mr. J. B. Prevost, who answers acquiescing save that he would have L. G. seized of everything to Le Roy's credit. Investigation should be made accordingly.

April 9.
10½ pp.

Extract from log
of the Charente.

Logbook of the Charente, from Tuesday, April 9, 1743, to Wednesday, October 9, 1743.

There is no heading or other direct clue to indicate name of the vessel or terms of the voyage. Except that D'Aubigney figures hitherto in this entry as the captain of the Charente. Entries both start and cease as though intermediate notes or extracts from some ampler diary. Our note is from the first entry: "Tuesday, April 9, 1743. At 6 A. M. the winds veered S. E. light breeze, almost a calm, land enveloped in thick fog. Clearing 7½ A. M. Sighted the hill of the Cape (possibly Cap Francois) which lay S. W. two leagues off. At 8½ winds freshened E. We steered for the rock "a petit colet". Pilot came aboard at 10 and we got into the Pass at 10:45 anchoring behind Louisiana vessel of His Majesty which we saluted with 13 guns and the same ashore. At 1 O'clock we put out the long boat, having no canoe. Messrs. Rasreau embarked in order to obtain instructions from the commanding officer, already unmoored and planning to leave on the morrow. These gentlemen have signified how happy they would have been for the honor of his escort, had it been possible. Mr. le Chevalier d'Aubigny, Commander granted us a day's delay for purpose of revictualing.

April 10.
Memorandum on
merchandise.

Dry goods consigned by Pierre Millot of the Cape to MM. Rasteau. Marks: L. A. S. R. A. No total affixed.

April 10. 2
No. 922.
1 p.

Session of the
Superior Council
of April 10, 1743.

Where were present MM. Salmon, First Judge; Descloseaux, Commissioner of the Marine; and Prat, Councillor.

Judgment rendered in suit of Sr. Louis Geoffroy, plaintiff, vs. Sr. J. B. Prevost, Agent of the Company of the Indies, defendant: Council orders that inventory be taken at New Orleans of the merchandise and effects on the boat the Elizabeth and of the effects carried in the bill of lading of Sr. Geoffroy, marked with his mark and remitted to him, of the seizure made on the said boat, and of what may be due to the King. Costs pending.

Signed: Salmon. Bobe Descloseaux, fleuriau, Prat.

April 12.
3 pp.

Further proceedings in Prevost's suit concerning the cargo of the Schooner Elizabeth.
See April 3 and 8 this index.

Petition to M. de Salmon, First Judge, Commissioner of the Marine and Ordonnateur by Lemesle de la Rivonais, passenger on the Schooner Elizabeth, commanded by Captain Le Roy, at present moored at the wharf of New Orleans, stating that seals were affixed yesterday on demand of Sr. Prevost, in the name of and under procuration of Sr. Montlouis, Procureur of Vacant Estates at Santo Domingo, for business of Sr. Montlouis, which has nothing in common with petitioner as said petitioner owns but one third of the cargo and that said Sr. Le Roy is captain, and that a long delay would be prejudicial to interests of said petitioner, prays that Sr. Prevost may be cited for whom it concerns, at the hour it may please you tomorrow morning, so that order may be issued for raising of the seals and release of seizure, justice of which may be proven by invoices and bills of lading in hands of petitioner Sr. Prevost to pay costs and have recourse against whom by right. Signed: C. Winient for La Rivonais.

April 10, 1743.

Permit to cite to-morrow at 10 o'clock in the morning, Signed: Salmon.

Sr. Prevost consents to delivery of effects of said La Rivaunais who will be responsible for them on the schooner Elizabeth, on condition that charges of freight and other money due to Sr. Charles Le Roy shall be seized in his hands to be remitted, after inventory, to whom by right and judicially adjudged. Memorandum.

dum of Sr. Montlouis served on Sr. Le Roy who will be sentenced to all costs and damages and interest, as judged right. Signed: Prevost.

April 12, 1743. Considering the above petition, the conclusions of the Procureur General, before rendering judgment the Council orders inventory to be made of effects of said La Rivonais, bills of lading and marks to be included which will be remitted to him to dispose of at his will, on his furnishing bond for the cost of freight as well as for the boat and rigging. Costs pending. Signed: Salmon, Bobe Descloseaux, fazende, Raguet, Prat, fleuriau.

Document slightly stained but in good script.

April 17.
3 pp.

The schooner Elizabeth; further proceedings in Prevost's suit. Petition of captain to recover papers and clothing.

Captain Charles Le Roy, of Schooner Elizabeth, remonstrates that he is not unwilling to render the commanded account of said vessel, but he must have access to papers in seized trunks, and would also recover his personal apparel. Judge Salmon assents and orders Mr. Prevost summoned. The latter agrees but not in respect to originals of bills of lading. Let copies be furnished. So ruled. Le Roy receipts to Henry (Greffier).

April 18.
2 pp.

Inventory of Schooner Elizabeth.

Nautical catalogue of possible interest to marine antiquarians. Property left in custody of Philippe Benoist, mate, who transfers in part to Duperon in the warehouse of Mr. Cendre. (Cendert).

May 21, 1743. Louis de Launay receipts for said property, as subsequent custodian, discharging Benoist.

April 18, (2 pp.) Petition for more time. Charles Le Roy requests a fortnight's grace in the matter of accounting.

No note by Court.

April 18, 2 pp. Defense of Charles Le Roy to Sr. Gaune de Montlouis, plaintiff, naming Sr. Gerard as his associate from whom he still awaits account and report of the sale made in Havana.

April 18. 1 p. Decision between Montlouis and Le Roy. Le Roy shall answer to plaintiff's Attorney. Crew of schooner to be dismissed and posters to be issued for sale of

schooner. Costs reserved. Signed: Salmon. Bobe Descloseaux, Fazende, Raguet, Prat, fleuriau.

April 18. 4 pp. Decision between Montlouis and Le Roy. Same as in preceding number with antecedent review of the case and appended notice to Le Roy.

April 19.
1 p.

Report of experts
on condition of a
house.

Andre Berteaux and Nicolas Judice who were directed to view the house of the late "Leguisier" and Lapierre find that unless prompt repairs are effected total ruin is imminent. Proceedings moved by the Court.

April 20.
2 pp.

Suit by Dr. Jean
Pratt for medical
services.

To collect medical bills from Petit, inn-keeper; from dismissed Swiss sergeant Bernard and Caron, butcher. Respective sums due: 98 $\frac{1}{4}$ livres, 63 livres, 138 livres.

April 20. 2 pp.
The Schooner
Elizabeth.

Pay Roll of Schooner Elizabeth. Total 937 livres. Appended receipt.

April 22.
1 p.

Suit for debt.

Bellevue steward of Mr. Lafreniere's plantation claims residue sum of 49 livres from one Gaspart Bellome, tailor, who declines to pay cash and would settle in work.

April 22. 1 p.
Suit against
captain of
Schooner
Elizabeth on
this note.

Captain Macarty of Marine detachment claims 820 livres from Captain Charles Le Roy, due on a transferred note.

April 23.
2 $\frac{1}{2}$ pp.

Procuration.

Granted by Jean Jung, merchant of Bordeaux, France, Parish of St. Michel to Sr. Antoine Moine, Captain of the Comte de Maurepas to collect all debts due in Louisiana, receipt for same, plead, protest give valid discharge, etc., until revocation of this present. Signed: Despiet, Lagenie.

(23776)

Certificate by Dalbessard that above procuration was signed by Despiet and Lagenie notaries of Bordeaux.

April 24.
(24974)
(3803)
5 pp.
Marriage
contract.

Of Andre Rambin, son of Michel Rambin and of Dominique Rollandin, a native of Grenoble, Parish of St. Hugues, Bishopric of Grenoble, of Mr. de Gauvrit's company, and Marie Jacobin Toups, minor daughter of Gaspard Toups and Marie Barbe Clitevene, a native of Carlestin, German Village. Signed Brantan, Tesson, Chanralou. Henry, notary.
Toups one of the pioneer Germans.

April 25.
(24879)
(3804)
3 pp.
Sale of property
on Conti Street,
New Orleans.

Sale of two lots on Conti Street, Nos. 385, 386, by permit granted March 16, 1743, which sale has been posted and cried as prescribed, and now transferred to Francois Boyer for the sum of 1500 livres in current Colonial money, which Thomas Leger has acknowledged to have been paid cash. On said lot is a house 30 ft. long with brick chimneys, said lots having been acquired by Leger from Madam Bonpart under private seal on July 18, 1730, after being conceded by the Gentlemen of the Council of Administration in the same year. Signed: Thomas Leger. Larche*. Chantalou. Henry notary.

*There is an accent on finale of Larche which is probably an error as the name is constantly repeated without any accent, it being originally Larchevesque.

April 25. 2 pp.
Sale of Schooner
Elizabeth
advertised.

Three announcements: April 25, 28, May 5.

April 26.
1 p.
Suit for debt.

J. B. Gauvain, husband of La Liberté claims 63 livres in French specie, owed that estate by Mr. Pery as charged with funds of Desqueroch* estate, where the original debtor Rebout* placed his money.

*Should be Descarrac and Reboul.

April 27.
2 pp.
No. 924.
Session of the
Superior
Council.

Were present MM. deSalmon, First Judge; Raguet and Prat, Councillors.

Judgments rendered:

1. Between Sr. Charles Le Roy, plaintiff and defendant, vs. J. B. Prevost, acting under procuration of Sr. de Mont Louis defendant and plaintiff: Council orders that defense of Sr. Le Roy be answered and the whole

reported to be ordered what is just. Costs pending.

2. Sr. Macarty, plaintiff, vs. Sr. Le Roy defendant: Council orders defendant, Nicolas Le Roy, to pay plaintiff amount of his note, 800 livres, of last June and costs.
3. Between Charles Roy, plaintiff, vs. Nicolas Le Roy, defendant: Council condemns defendant to pay plaintiff the amount carried in his note in money or receipt and to costs. (End of page, Signed: Salmon.)
4. Between Councillor Prat, plaintiff, vs. Ignace Petit, and Sr. Caron, defendants: Judgment against Petit who is ordered to pay amount demanded by plaintiff. Caron is also sentenced to pay plaintiff the sum of 88 livres, 10 sols, and costs.
5. Between Bellevue, plaintiff, vs. Gaspard Bellomé, defendant: Judgment in default against defendant who is ordered to pay his bill and costs.
6. Between Sr. Capron, plaintiff, Bellegarde, acting for him and Sr. Jahan, defendant: Parties ordered to present themselves before Council in a fortnight. Costs pending. Signed: Salmon. Raguét, Prat, fleuriau..

April 27.
2 pp.

Petition for sale
of real property
of La Pierre,
deceased.

Petition to Superior Council by Joseph Le Cour to have house and lot of deceased La Pierre, wig-maker, widower of deceased Laiguisier, who left children, examined by experts which was done and proces verbal of visit is hereto annexed. He prays for homologation of same in order to proceed promptly to sale of said house and half lot. Signed: Joseph Le Cour.

Consent of the Procureur General of the King for the minors that the said house be put up for sale after complying with prescribed formalities.

April 27, 1743. Order for sale of said house and lot. Signed: Salmon, Raguét, fleuriau, Prat.

April 28. 1 p. Sale of real estate advertised. House and a small lot belonging to estate of late La Pierre, wig-maker, advertised for sale.

Announcement repeated on May 5 and May 19.

April 28. **Undersigned J. Dandaunau** has received from
1 p. Mr. Aufrere four notes to aggregate amount
Receipt of notes of 390 $\frac{1}{4}$ livres and promises to collect and
for collection. render a account to Aufrere. Notes to be re-
turned if not collected.

April 29. **Le Mesle**, alias Bellegarde, claims 100 piastres
1 p. from M. Haville, due on a transferred note.
Suit on note. Action allowed.

April 29. **Captain Charles Le Roy** of Schooner Elizabeth
6 pp. bases his defense on maxim "Impera lex cogit
Schooner necessitas". In outline Le Roy's orders were
Elizabeth, to command the schooner as Captain and ac-
answer of count for it. His part of the original agree-
captain LeRoy ment is still in force till he returns as ordered
to the suit of to the Cape. Le Roy disclaims responsibility
Prevost. for Gerald's acts, especially at Havana where
G. alone was conversant with Spanish. Le
Roy had nothing to do but let Gerald act
rightly or wrongly. As for sailing for Mar-
tinique this was especially to recover on losses
at Havana and to avoid further more loss by
depreciated market at the Cape, whereas Mar-
tinique offered better prospects. In sum Le
Roy pleads for arbitration and suspension of
proceedings to sell the schooner. Communi-
cated to Mr. Prevost.

May 2, 9 pp. J. B. Prevost contests Le Roy's
argument of invincible necessity: too slippery
proofs of it. He persists in demanding indem-
nity to 40,000 livres and asks to let schooner
be sold in consequence. He would have Le
Roy jailed in this town till satisfaction be ob-
tained. Duplicated. One copy tolerably dis-
tinct, the other faded.

Cargo sales at Havana comprised logwood,
hides and mahogany.

May 3. 2 pp. **Ponce Maufieux** (signed Maufieu) settler Aux
Suit for damages Allemands, was deprived of 2000 tobacco
for depriving plants by one Deslandes. Redress sought.
plaintiff of April 27, 1743. Memorandum of an earlier
tobacco plants. complaint in same strain, inside page.

- May 15. 2 pp. **Nixolas Ducret** alias Belhumeur, Attorney for Mr. Gallé, merchant, at La Rochelle calls for an account of two chests of goods consigned to Charles Le Roy by ship L'Aimable Suzanne, Captain Baussan. Total invoice was 8337 livres, 8 sols and Le Roy is responsible for 4168 livres, 14 sols. Let him be cited and his real estate attached (house and several lots). Action and seizure allowed at risks, perils and fortunes of whom concerned. Salmon.
- Attachment of property of defendant in suit to recover goods consigned to him.
- May 16. 2 pp. **Letter of Chevalier D'Aubigny.** (On board La Charente). Correspondent's name not indicated. Sends invoices of 18 bales of goods, including some candles and five hampers of Malaga. Wishes prosperous voyage and "no end of piastres."
- Letter from Captain D'Aubigny.
- May 16. 2 pp. **"Mr. Pery, his account current with De Meyere."** Balance debit by DeMeyere to Roy, 356 piastres, 2 reales. Receipt subjoined.
- Memorandum of account. (Veracruz).
- May 21 2 pp. **Philippe Benoist**, mate of schooner Elizabeth and guard on board thereof asks to be relieved. Judge orders the citation of Srs. Le Roy and Prevost. They consent and Mr. Prevost names Launay to succeed P. B. Attorney General Fleuriau so orders and authorizes Benoist to embark at liberty.
- The mate of the Elizabeth acting as custodian of the vessel under seizure asks to be relieved of his task.
- May 22. 2 pp. **La Pierre** property awarded to Mr. Avignon for 1600 livres cash. Signed: Avignon, fleuriau, Salmon.
- Sale of real estate.
- May 23. 2 pp. **Spanish Letter Juan Dec Estemburu**, (Veracruz). Addressed to Mr. Pery, concerning transaction reported May 16, 1743. Writer is empowered clerk of Don Cosuela, then absent in Mexico. Writer gave provisional receipt for account in question (356 pesos, 2 reals) subject to Mr. Pery's approval.
- Letter from Vera Cruz. See further May 29.
- May 27. 2 pp. **Installation of Governor De Vaudreuil.** Commission was dated July 1, 1742. Commission read, he is forthwith installed in place of Monsieur de Bienville. Signed: Salmon, Louboey, Noyan, Bobe Descloseaux, Pasquier, Lafreniere, Prat, Raguet, fleuriau.
- Inauguration of Governor de Vaudreuil as successor to Governor Bienville. See La. Hist. Qy., Vol. 6, p. 568, 1923.

May 29.
2 pp.

Translation of
Spanish letter
noted under
May 23.

On the face of it nothing in the letter imputes irregular dealings to de Meyere. The writer acts as intermediary and leaves the returns to Mr. Pery's discretion. Reference to some aspects of foreign trade best excluded from Veracruz tribunals, by reason, it appears, of prohibitive laws against certain commodities here involved.

June 1. 2 pp.
Judgment of
Superior Council.

Decision between Gauvain and Pery. Defendant to pay claim in question, 63 livres.

June 1. 4 pp.
Argument on
request of
Captain LeRoy.

He seeks to detach himself from actions of Gerald and again requests arbitration.

June 1.
16 pp.
Schooner
Elizabeth.
Judgment of
Superior Council.

Decision between Montlouis and Le Roy and Gerald Fitzmaurice, First Mr. Prevost, Attorney for Montlouis, shall be paid the latter's one third interest in outlay; namely the sum of 13485 livres to be realized from sale proceeds of the schooner and from freight due Le Roy by MM. Geoffroy and La Rivonnais: costs deducted. Secondly as regards unsettled profits, Gerald and Le Roy shall render account and be answerable conjointly, before MM. Voisin and Assailly, named as official referees. Adjudication to ensue thereafter. Costs reserved.

June 1.
No. 927.
3 pp.
Session of the
Superior Council
of June 1, 1743.
Judgment in
sundry cases.

Where were present MM. Lafreniere, Fazende, Raguet and Prat Councillors.

Judgments rendered in following cases:

1. Sr. Jean Baptiste Gauvain, plaintiff, vs. Sr. Gerard Pery, defendant: Case heard and conclusions of the Procureur General and it being proven that defendant has funds belonging to said Reboul, Council orders him to pay face of note of said Reboul and costs.
2. Between Sr. J. Fossier, plaintiff, vs. Gauvain, defendant: Conclusions of the Procureur General heard and considering mandate of said Gauvain and certificate of Jahan, the Council orders Gauvain to pay 53 livres and costs.
3. Between Lemelle called Bellegarde, plaintiff, vs. Francois Haville, defendant: The Council seeing the note of Haville of the

20th of last August made in favor of said Bellegarde, has rendered judgment in default against defendant, ordering him to pay said note and costs.

4. Between Pierre Maufieux, plaintiff, vs. Jean Deslandes, defendant: Council has rendered judgment in default against defendant and ordered him to appear before Council at its next session. Costs pending.

(*Should be
Le Roy).

5. Between Nicolas Ducret, plaintiff, vs. Charles Roy,* defendant: Case heard, considering procuration to Gallé, merchant of La Rochelle, copy of invoice and notes made by Roy in favor of said Gallé, together with procuration sent to Eymard, merchant of Martinique, Council has thrown demands of plaintiff out of Court, as the sum he demands was paid at Martinique, and orders however that vouchers be deposited in the Registry and certificate given to whom it concerns. Costs compensated.

6. Between Nicolas Cristina, plaintiff, vs. Jahan and Romant, defendants: The Council considering note of Romant of August 13th, 1741, condemns Romant to pay its contents to said Cristina and in default of said Roman paying, recourse to be had against Jahan, endorser for Roman who may have recourse against Roman, who shall also pay costs.

7. Between Sr. Jean Baptiste Prevost, acting under procuration of Sr. Gaune de Montlouis of Santo Domingo, plaintiff, vs. Charles Le Roy, defendant, here present, and Sr. Gerard Fitz Maurice, also defendant, absent: Council orders that on returns of sale of the schooner and of its freight, the sum of thirteen thousand four hundred and eighty-five livres, four sols, ten deniers, be turned over to the Attorney of Montlouis as his share and portion of what he advanced to Le Roy and Fitz Maurice in partnership and it orders that account be rendered by Gerard F. M. as well as by Le Roy solidarily and that parties have recourse before Srs. Voisin and Assailly whom the Court has officially appointed to report on the effects and papers remitted to them, that justice may be done. Costs pending. Signed: lafreniere, fazende, Raguet, Prat, fleuriau.

June 1.

5 pp.

Petition for
discharge as
tutor.

Lieutenant Jacques Delfau de Pontalba, who married Etienne Louise de Malbec, widow of Petit de Livilliers, on December 4, 1741, shows that new property division pends in consequence of Madame's decease after confinement in Brittany. This fact and the birth of a son to petitioner discharges him as tutor of the children by Madame's first marriage. Let Council relieve him and name successor. Referred to Attorney General who assents and sets forth detailed provisos. Seconded by Council. Signed: Raguët, Lafreniere, Fazende, Prat.

June 10.

1 p.

Suit for debt.

J. B. Le Gros, alias La Tendresse, claims 44 livres from estate of late Brunet, blacksmith as shown by vouchers annexed.

June 12.

2 pp.

Suit for debt.

Michel Brosset claims 155 livres from estate of late Brunet, blacksmith, for charcoal. Widow Brunet declined to pay him "save by means of justice."

June 12.

1 p.

Suit for debt.

Francois Jahan claims 600 francs from Tixerant, subject to allowance according to note attached.

June 14.

1 p.

Schooner
Elizabeth.
Memorandum of
freight.

Captain Charles Le Roy, of schooner Elizabeth, certifies that Mr. Le Melle de la Rivonnais had no freight in said schooner except eleven barrels of rum and one barrel of sugar, "composing" three tons at the rate of 100 livres a ton or amount of 300 livres in Colonial money. Mr. Henry, Recorder, will please receipt accordingly to Mr. de la Rivonnais when the latter pays.

June 18.

2 pp.

Report of
murderous
assault.

Attack on cook
of Commandant
D'Orgon by con-
vict gardener
who stabbed
himself to free
himself. Report
made to Gover-
nor and
Ordonnateur.

J. B. Masson, alias Picard, soldier of the garrison at Natchez, serving as cook at home of the Captain, Chevalier D'Orgon, Commandant of said Post, lodges complaint against Chaume, a convict, assigned by Governor Bienville and Mr. de Salmon for work in the Commandant's garden, for attacking Masson, the cook, in his kitchen and threatening to break his arms; Sr. Roumier, Guardian of the King's store was called to said Post to tie up the said convict, as it was forbidden to a convict to strike a free man. The convict seeing him come stabbed himself in left breast and lost a quan-

tity of blood, which he said that he did to free himself from slavery, wherefore present procès verbal was drawn up to be presented to MM. Bienville and Salmon to be ordered what is just. Signed: J. Hector. Marks of the Corporal, St. Martens, Pasent.

Leconte, Masson, — Marks of P. Aubin . . . Duplessis, Coussoy, Reunier, Lecher D'orgon.

June 20.
3 pp.

Letter from
Rasteau of La
Rochelle.

Letter to Mr. Rasteau, commanding the Lion d'Or, from Rasteau senior, of La Rochelle. A family, business letter, Pious and affectionate ending.

P. S. Signed P. J. Rasteau expressing his joy which equalled his friendship for and sending best wishes for Christmas.

June 22.
2 pp.

Suit against
surety on debt.

Petition to Mr. De Salmon by Chevalier de Louboey reporting a missing box marked M. D. L. B. invoice of which is annexed, sent by La Reine des Anges, consigned to him by Mr. Gachina of Rochefort. Decree of Superior Council that the Chevalier receive equivalent sum to the current prices at New Orleans at the said time (Dec., 1742) with Mr. Gregoire Volant as security. Signed: Louboey.

June 22, 1743. Citation of Sr. Volant signed: Salmon.

July 2, 1743. Notice of citation served on Sr. Gregoire Volant, on petition of Chevalier de Louboey, Lieutenant of the King, by Augustin Chantalou, huissier.

June 25. 1 p.
Schooner
Elizabeth papers,
invoice and
receipt trans-
mitted to
arbitrators.

Statement of Papers remitted to Mr. Voisin by Mr. Henry, Greffier.

Receipt for above papers signed: P. Voisin.

June 28, 1743. Invoice of merchandise sent in Schooner remitted to Sr. Jahan on above date. Signed: Jahan.

June 25.
2 pp.

Widow Brusle
Petitions for
recovery of debt.

Petition to the Superior Council by Widow Bruslé claiming from succession of deceased Denis Boulanger the sum of 165 livres, as per annexed note of October 19, 1728, in favor of François DuGuay, son-in-law of petitioner, wherefore she prays for citation of Sr. Barbin, Attorney of Vacant Estates. Signed: Bruslé.

June 25, 1743. Permit to cite signed: Salmon.

June 27, 1743. Notice served on Sr. Barbin, Attorney of Vacant Estates at his domicile in this City, by Augustin Chantalou, huissier.

June 26.
(30600)
2½ pp.

Letter concerning
death of
Baschemin's son.

(*Fleuriau).

Letter to Mr. Raguet by Baschemin concerning his son's death. He is informed that there are no birds of prey in that vicinity and he now believes that Mr. Chatant's (Chastant) Pompey murdered him. Gives reasons which lead him to that belief and thinks that suspect should be arrested and submitted to the rack (la question). He was at Mr. Fleuriot's* at the dance and he is persuaded that he has been killed as a man does not thus disappear. He may have held a grudge against my son for having ordered to fire on him if he tried to run away, though his gun was loaded only with salt to frighten him. Tells Mr. Raguet that Mrs. Raguet is well.

June 27.
1½ pp.

Application to
Council for per-
mission to sell
real property in
New Orleans.

"Petition to Mr. Salmon, Commissioner of the Marine and President of the Superior Council" by Helene La Brosse, widow of deceased Larche Grandpré to permit sale of a house and lot, hoping for it all the more, because there remains on all her matrimonial rights but two lots, about 2200 livres, which does not equal one third of what should come to her by right, amounting to 12 or 13000 livres in hands of Attorney of Vacant Estates, proceedings from succession of her husband, deceased in Illinois to pay the sum of 2400 livres due to the Company of the Indies, from whom she never received any effects during her community with her husband. Signed: Widow Larche Grandpre.

June 28, 1743. Order to communicate to the Procureur General of the King. Signed: Salmon.

June 28, 1743. Permit to sell said house after compliance with formalities prescribed and on condition that returns thereof be deposited until account be rendered to minor heirs. Signed: Salmon.

July 18, 1743. Declaration by Augustin Chantalou, Hussier, that sale was posted and published three times without opposition or protest.

June 28, 1743. (In Margin) Consent of Procureur General of the King to sale of the aforesaid house, on condition of rendering account to minors and of deposit of returns on same until approval of account rendered. Signed: fleuriau.

(To be Continued)

✓ a

**INDEX TO THE SPANISH JUDICIAL RECORDS
OF LOUISIANA
XXII.**

March-May, 1776.

(Continued from April, 1928)

By LAURA L. PORTEOUS

March 4, 1776.

**Juan Waugh (John Watt)
vs. Tarascon (Santiago)**

No. 3717. 4 pp.

Court of Alcalde Livaudais.

No Assessor.

Escribano, J. B. Garic.

To collect a debt.

The plaintiff states that the defendant owes him 115 pesos, which he has been unable to collect. He now asks to have this debt verified. Tarascon says that the note and signature are his but that Juan Waugh has made an error in his accounting prejudicial to the declarer as will be made

evident by one of the facteurs where certain items appear as having been too dear, therefore he does not wish to make a payment until this error is rectified. Upon the strength of this acknowledgment of the debt, Waugh asks for a writ of execution, which is ordered issued. This ends the record.

March 5.

**Authorization of
Maria Hamy Lemaire
during the absence of her
husband.**

No. 11. 4 pp.

Court of Governor Unzaga.

No Assessor.

Escribano, J. B. Garic.

Marie Hamy, wife of Santiago Lemaire, states that her husband has been absent a long time and she does not know when he will be back. In order to repair the prejudice done her by his absence she asks to have the testimony of witnesses heard upon the fact and on that proof to be authorized to appear in Court to make demands,

prosecute the suits pending against her, and to conclude them.

Esteban Quinones, Fernando Rodriguez and Bernado Osone each testifies in separate declaration that Mr. Lemaire has been absent for more than a year, they do not know where he is nor when he will be back.

Unzaga rules that he authorizes and does authorize Mrs. Le Maire and grants her the power to name an attorney to defend her and that to all this he interposed and did interpose his authority and judicial decree and orders that she be given the certified copies that she will ask, she paying the just and due fees.

March 5.

Maria Hami petitions for permission to sell some houses on the corner of Royal and St. Philip Streets.

No. 17. 4 pp.

Court of Governor Unzaga.

No Assessor.

Escribano, Andres Almon-
ester.

Maria Hami or Lamy, wife of Santiago Lemaire states that her husband is absent, she does not know where he is nor when he will return and as he owes some debts contracted on various notes that have matured and as executory proceedings have been begun against his estate she asks to be authorized to sell some houses on Royal corner of St. Philip and to call witnesses to verify her state-

ment and if their depositions conform to what she has just said to grant her the permission to sell and to authorize the execution of the required acts of sale. Unzaga orders the three necessary witnesses called.

Santiago Landreau, Jean Baptiste Moroteau and Claude Acosta, each in a separate declaration states that Santiago Lemaire, the petitioner's husband, has been absent from the city for more than a year, no one knows where he is or when he will be back and that he has many creditors who are asking to be paid from whatever property Mr. Lemaire has left here.

Unzaga orders Maria Hami-Lemaire to be granted the permission to sell and to authorize the execution of the written acts of sale for the houses as she requested. A marginal note stipulates that the written acts that were ordered have been executed this day, March 7, 1776.

March 11.

Intestate Succession of Francisca Lefebre inventory and valuation of her estate.

No. 38. 85 pp.

Court of Alcalde Pedro

Henrique Derneville.

No assessor mentioned.

Escribano, Andres Almon-
ester.

This succession opens in the usual way with the announcement of the death of Mrs. Lefevre who has been twice married. Of her children, two by her first husband have died leaving minor grand children, heirs for their parents' shares. For the security of the part that comes to them the Court orders the succession opened.

The escribano certify that no will of the decedent is in their archives, Mr. Francisca Le Fevre is thereupon declared to have died intestate.

Alcalde Derneville calls upon Santiago Voisin, son-in-law of the deceased, to testify how many marriages she contracted, how many children she had by each, their ages and condition.

Under oath Santiago Voisin declares that his mother-in-law was married the first time to Dionicio Buenaventura, of this marriage she had two sons one named Carlos, who died in France leaving a minor daughter born of a marriage contracted there, and a daughter called Francisca, who became the wife of Voisin, but she has died. There were born of this marriage two daugh-

ters who are now living, one is Elena, a minor, and is unmarried, the other Francisca is married to Baltasar de Villiers.

The decedant's second marriage was contracted with Joseph Petit, of this union there are two children, a son named Roque, unmarried and the other a daughter, Julia, married to Francisco Pradier, both of age.

The Court rules that since Francisca Lefevre has left minor grand children, the Court names as their curator ad lites Francisco Broutin who must accept, take oath and give bond. Broutin qualifies giving Joseph Populus as surety. Whereupon the appointment as curator is issued.

Francisco Broutin, as curator for the minor grand children by representation of Don Carlos and Dona Francisca Buenaventura, children of Francisca Le Fevre, all deceased, asks to have a valuation and sale of the property left. The sale to be made at public auction and adjudicated to the highest bidder and in order that this may have effect he names Esteban de Quinones appraiser, and asks the other interested parties be ordered to name theirs within a short space of time.

Roque Petit and Francisca Pradier, as husband of Julia Petit, appoint Pedro Cowley their attorney to represent them in the settlement of their mother's succession. They say they are satisfied to have a sale of the estate and name Esteban de Quinones appraiser. Derneville approves the appointment.

The inventory and valuation is begun after Santiago Voisin presents the key to an armoire that was entrusted to him. This armoire was opened by Esteban de Quinones and found to contain household linen and clothes, there were also some house furnishings, provisions and papers.

All parties declare themselves satisfied with the inventory and valuation and the Alcalde approves the inventory and orders all parties to abide by it.

The heirs joins in an application to sell the estate at public auction and this being orders the three public calls are made on March 20, 23, and 26 and the auction held on the 30th. Each item of the inventory is offered separately and adjudicated to the highest bidder. All property having been sold, Broutin asks that the costs of the case be taxed, which will be paid by the guardian of the estate. Manuel Andres Lopez de Armesto taxes the costs at 66 pesos $\frac{1}{4}$ real.

Broutin then sets forth that the property has all been sold and the product deposited with Roque Petit, guardian, who should be ordered to render an account and sworn statement of what has been in his charge. This he does, after filing 14 vouchers. His account and sworn statement appears as:

Assets	1288,,	6
Debts and charges.....	483,,	$3\frac{1}{2}$
Balance	805,,	$2\frac{1}{2}$

This does not include the notes collected which brings the amount to be divided to 1085 pesos, 7 reales.

All the heirs and their representatives declare themselves satisfied with the above account and sworn statement, and the Alcalde rules that with the consent of all parties Manuel Lopez Armesto will make a partition, but he must first qualify and tax the costs of the case. This he does at 17 pesos, 3½ reales.

The division, made by him allots to Carlos Buenaventura, 271 pesos, 3 R. 25½ M. Elena Voisin and her sister, Francisca, Mrs. Balthazer de Villiers, their mother's share, 271 pesos, 3 reales, 25½ maravedi. Roque Petit, 271 pesos, 3 reales, 25½ maravedi; Julia Petit, Mrs. Francisca Pradier, 271 pesos, 3 reales, 25½ maravedi. The heirs ask to have the partition approved, and the Alcalde so orders and condemns them to abide by it.

Then follows a petition by the heirs to tax the last costs of these proceedings and also for the making of the partition. This Armesto does at 19 pesos, ½ real. This little case again illustrates the cost of judicial proceedings in the Spanish era. Three taxation of costs aggregating 102 pesos, 4½ reales against a gross estate of 2373 pesos.

March 15.

Renunciation made by Daniel Fagot of his office of Regidor and Receiver of Fines of this city in favor of Christoval de Glapion.

No. 18, 18 pp.

Court of Governor Unzaga.
No Assessor.

Escribano, Andres Almonester.

This record is the first we have found affirming the right of the possessor to transfer an office. The several rulings of the Governor and the Contador are of historical interest, and we will print this record in full in an early number of the Quarterly.

ringlez, Pedro Cowley and Salomon Malline.

Christoval de Glapion appears and says that as it will appear from the above, Daniel Fagot has renounced his office in his favor and prays that they issue to him the necessary title to the office so that he may enter into the use and execution of these prerogatives.

The first document filed in this proceeding is a certified copy of the notarial act of renunciation made by Daniel Fagot de la Garciniere who is a Regidor Perpetuo and a Receiver of Fines of the Camara. He declares that using the faculties conceded to him by Royal Cedula which treats upon salable and transferable offices in this kingdom, he renounces what he obtained in ownership from the hands of the King in favor of Christoval Glapion, a person possessing the parts and qualities necessary to obtain it and if His Majesty does not deign to bestow this grace he does not renounce it. Thus he authorized and signed, the witnesses being Fernando Rod-

Unzaga orders the copy of the act of renunciation sent to the Contador of the Royal Treasury (Martin Navarro) who answers that the applicant for this office must show, as the law requires, that his predecessor has been dead twenty days, then they must proceed to the making of a valuation of the office in the accustomed way.

Unzaga orders Glapion to prove Fagot's death, this he does on June 15, 1776, by presenting a burial certificate, signed by Father Cyrille de Barcelona to the effect that on April 7, 1776, he performed the burial rites over the body of Daniel Fagot. He then reiterates his plea.

Unzaga rules that as Glapion has fulfilled the requirements of law let the office be appraised by the Regidores Francisco Maria de Reggio, Alferez Real, and Joseph Ducros, General Receiver, who must both qualify before doing so. They comply with this order and appraise the office in the presence of Martin Navarro. After conferring for a long time, they come to an agreement that the office is worth 1200 pesos.

Whereupon on June 21, Unzaga rules to issue the title to the office in due form, and with this let Glapion present himself before the Most Illustrious Cabildo so as to take oath in the accustomed way. Give him a certified copy of these entire proceedings and that within five years counting from this day he must make it evident that he has received Royal Confirmation of the said title. If this time passes without it having been declared confirmed it will be considered as vacant and revert to the favor of the Royal Treasury in conformity to law.

On July 19, Christoval de Glapion sets forth that conforming to the representations of the Contador of the Royal Treasury, on page 5, he has exhibited the part that belongs to His Majesty which is 400 pesos, besides the right of half annats and its conveyance to Spain, this sum the Contador deposited in the Royal coffres, supposing he must contribute the one half of the value at which the office has been appraised as is required. This office was first renounced after it had received Royal Confirmation with all the solemnity necessary when it was abandoned by Dionisio Braud (See La. Hist. Qy., Vol. 10, No. 2, April, 1927, page 293). It was then sold at public auction in favor of the Royal Treasury, to his predecessor. Therefore the Treasury holds the part paid by the first to whom the office was assigned, but who had never occupied it. He asks if there be no law to the contrary, and that it be in conformity to the will of His Majesty he be exempt from making this payment of one half the price at which the office has been appraised. (Note—This office has first been appraised by Navarro at 1200 pesos, and the petitioner says that he has deposited 400 pesos only. Evidently this was a tentative offer to be considered by the governor.—Ed. Qy.)

Unzaga sends this petition to Martin Navarro, who answers the foregoing petition saying that there is nothing enacted in

the laws on the subject but it is contrary to the spirit of them and sound reason. A second renunciation can not be given unless the first is understood to have been made, and at all times these renunciations must be in consecutive order and must be verified. Unzaga rules let the provision of page 11 be guarded and in consideration of the advice offered by the Contador of the Royal Treasury let it be declared that Christoval de Glapion must pay to the Royal Coñies one half the value at which the office of Regidor and Receiver of Fines forfeited to the Camara at the price it was estimated, that Daniel Fagot obtained from the first renunciation.

This ruling is followed by two receipts signed by Bernardo de Otero, Treasurer General of the Army and Province who acknowledges in the first one, dated October 18, 1776, that he has received from Christoval de Glapion 4800 silver reales as the one half of the value of the office he has received. This sum is paid to the favor of the Royal Treasury. Martin Navarro is ordered to and does make a record of this receipt. The second is likewise dated October 18, 1776, and is for 377 reales, 20 $\frac{2}{5}$ maravedi in silver for the $21\frac{1}{2}\%$ of the half annats of 1200 pesos at which the office was valued, from this deduction will be added one third part more, which will be 57 reales, 20 $\frac{2}{5}$ maravedi in silver for the 18% for conveyance to Spain, as the law provides, of this forenamed 377 reales, 20, $\frac{2}{5}$ maravedi in silver. Bernardo de Otero has taken charge of this money in virtue of this receipt. Martin Navarro is ordered to take a record of it. He signs both receipts. The record ends here.

April 7.

Succession of Daniel Fagot de la Garciniere, Regidor Perpetuo.

No. 45. 65 pp.

Court of Governor Unzaga. Assessor, Cecilio Odoardo. Escribano, Andres Almonester.

This testate succession opens in usual way with the official announcement of the death of Daniel Fagot April 7, 1776, who has left minor children. This is followed by the certificate of death, the collection of the keys and the search for the will which is found and probated.

The will makes the following

recitations:

1st.—His name is Daniel Fagot de la Garciniere, son of Francisco Fagot de la Garciniere and Francisca Le Moine "D:Expedy," born in the city of Voiron in the Parish of St. Nicolas, in Definado. (Dauphiny) in France.

2nd.—He was married twice, the first time in the Post of Illinois under French Domination to Genoveva Boucher de Bonacoeuil, this marriage was entered into according to the customary contract. Of this union was born one son, Andres, who is living, aged twenty years and six months, who is now in France.

3rd.—He contracted a second marriage with Carlota Constanza Olivier, of this marriage his children are Carlos Daniel, now six, and Luisa Constanza eighteen months. In each of his contracts the amount of property each one brought to the community is stipulated.

4th.—He made a judicial declaration of the property and the sale of same that remained at the time of the death of his first wife, this amounted to 7000 pesos. In this is comprised his capital and property acquired during the first marriage as appears in the original document executed before Juan B. Garic.

5th.—There should be included in above amount a note of 1460 pesos not yet collected, although he has brought several suits to recover it. The debtor is Augustin de Boise who died insolvent in Santo Domingo, according to news sent to him by his brother Gasper Fagot who was charged to collect this debt.

6th.—He owes several debts for which he has given his notes, he wishes these paid by his testamentary executor.

7th.—He declares that his estate consists of the furniture in his house, ten slaves, and seven horses that are on the plantation of his father-in-law, Pedro Olivier, and another horse with Mr. Christoval Glapion.

8th.—He goes into detail concerning the debts that are due him in pelts of deer, otter and beaver, in indigo of the first quality and also in money, and instructs his testamentary executors to make these collections.

9th.—He names as tutrix and curatrix ad bono, his wife, Carlota Constanza Olivier who is relieved of giving bond and as his testamentary executors, his wife and Joseph Ducros, who may sell a sufficient amount of his property to pay his funeral expenses.

10th.—He names as his sole and universal heirs, his three children. He revokes all other wills and codicils etc., and signs.

The witnesses are Nicolas Forstall, Juan Prieto and Francisco Druett.

Unzaga on the advice of Odoardo, rules that as it appears from the foregoing will, the testator has named a guardian for his estate, in the person of his widow, let the keys of his possessions be delivered to her. To represent the absent minor he appoints Francisco Broutin as curator ad lites who must be notified so that he may accept, take oath and give bond, this done deliver to him the proceedings that have taken place which belong to his representation. Broutin qualifies and names Francisco Lio-teau as his surety.

Having complied with all the requirements of law, Broutin is appointed curator for the absent Fagot minor. Whereupon he petitions for an inventory and valuation of the estate, naming as his appraiser, Esteban de Quinones and asks that Carlota Constanza Olivier likewise name hers within a short space of time. Unzaga orders the interested party to name her appraiser, approving the one already named by Broutin, and this done, and the appraisers qualifying that they proceed with the inventory. Quinones qualifies, but Mrs. Fagot fails to obey the ruling, and to the valuation is made by the other appraiser.

The inventory is begun Monday, the 22nd of April 1776. Those present were the escribano, Almonester, Francisco Broutin, Esteban de Quinones and Mrs. Fagot. The estate consists of household effects, wearing apparel, books, and wine. There was also some silverware that was appraised separately by Pedro Goudrain, a silversmith of the city. After appraising the silver the slaves and live stock were appraised on Pedro Olivier De Vezin's plantation.

Broutin asks to have this inventory approved and all parties ordered to abide by it. Mrs. Fagot offers no objection, and Unzaga approves the inventory and valuation and orders the heirs to abide by it.

Broutin then asks that Mrs. Fagot who has been guardian of the estate give an account and sworn statement of her administration of the property. This is ordered done in eight days. After much delay, Mrs. Fagot asks for an additional 8 days to prepare her account and sworn statement, this was granted but she never files it.

On October 25, 1776, Broutin says that he was named curator ad lites for Andres Fagot, but considering that he has been emancipated he asks to have the costs of the case taxed by Andres Armesto and that they will be paid by Mrs. Fagot. Petition granted. Armesto qualifies. This ends the record which is apparently incomplete as the last page is very ragged and torn.

April 15.

Authorization of Maria Hary (Hami) wife of Santiago Le Maire to act during the absence of her husband.

No number. 3 pp.

Court of Alcalde Derneville.

No Assessor.

Escribano, Andres Almonester.

Page 1 of this record is missing, the first entry is a declaration by Guillermo Dubuisson in answer to Mrs. Lemaire's petition, he together with Jacques Le Duc and Luis Boisdoré each in a separate statement declare that the petitioner's husband has been absent for more than a year, no one knows where he is nor when he will return. He owns some houses in this city in one of which he

made his home. He owes Mr. Alexandre Bore some 9000 and odd livres on a note. Alcalde Derneville rules that in accordance

with the foregoing testimony he concedes Mrs. Hamy-Lemaire the permission she requests to sell the house referred to. On May 13 there is a marginal note stipulating that the written permission to sell that was ordered has been issued. Paraphed by Almonester. This ends the record.

April 16.

**Juan B. Chateau vs
Geronimo Matuliche.**

No. 3712. 18 pp.

Court of Governor Unzaga.

No Assessor.

Escribano, J. B. Garic.

An interesting and complicated story of lost papers, and of extensive litigation in consequences of the loss.

The record opens with several exhibits, the first is a certified copy of a procuration dated September 22, 1773, by which Juan B. Chateau appoints Luis Lioteau as his agent to take entire charge of all his affairs, particularly in the matter of law suits either for or against him.

The second is a petition to Mr. Foucault, the first judge of the Supreme Council of the preceding

regime. This is dated January 4, 1769 by and therein Jean B. Chateau sets forth that Geronimo Matuliche had brought suit against him for 1005 livres, 18 sols, which petitioner was sentenced to pay on April 20, 1768. Petitioner made no appearance because at that time Matuliche owed him a much larger sum but petitioner had lost the notes and receipts and he could not exhibit them. However Mr. Matuliche was convinced at the time that he owed petitioner but always objected to payment because the receipts and notes might have changed hands, therefore he would not pay them.

The petitioner further charges that some time after Mr. Matuliche left for Pensacola, petitioner found the bills, receipts and notes, and discovered that Matuliche owed him 1352 livres, 16 sols which exceeded plaintiff's debt to the former by 346 livres, 18 sols and he wrote to inform him of the fact that in place of being his debtor he was his creditor. What was his surprise to learn that Mr. Thery, an English merchant was threatening him with executory proceedings on a sentence dated December 17, last (1768) obtained at the request of this Mr. Thery without any preliminary proces, for this money petitioner is supposed to owe Matuliche.

This judgment is illegal and irregular because in such a suit the defender is free to make an answer and to offer to make or to refuse payment which response is made to appear on the petition by the process server who certifies that he delivered it and records the debtors refusal to conform to the order.

It was plaintiff's intention, if this had been done to answer by exhibiting Matuliche's receipt and notes. He wrote Mr. Matuliche a letter, dated February 26, 1768, resenting Thery's demand and explaining he had found the notes and receipts and

instead of his being Matuliche's debtor for 1005 livres, 1 8sols, the latter owed him 1,552 livres, 16 sols, or by settling the two accounts, 346 livres, 18 sols. Matuliche in answer transferred all his papers to Mr. Thery to begin suit against him, yet he has no power nor procuration authorizing him to take action.

Therefore he prays that both Matuliche and Thery both be summoned to appear before the Superior Council, Matuliche to receive his receipts and notes in compensation for what Chateau owes and to pay off his further indebtedness of 346 livres, 18 sols and Mr. Thery to be ordered to withdraw his demands and that they both be condemned to pay costs. On the petition Foucault orders Mathliche and Thery to appear for the first ordinary hearing of the Council. The process server, J. Martin certifies that he served the writ of summons on Messrs. Matuliche and Thery at the latter's home. Attached to this is a certified copy of the letter sent to Matuliche in Pensacola mentioned in the foregoing petition.

The next exhibit is a certified copy of a sentence by arbitration dated New Orleans, May 5, 1774, between Messrs. Saint Pe and Chateau, Messrs. Duforest and J. Hervouet acting as arbitrators. After mature deliberation and examination of the records of the proceedings the arbitrators conclude that Mr. Chateau owes 1005 livres, 18 sols, the payment of which has been demanded by Saint Pe on Chateau's notes that he holds. They went to Mr. Mazange's house where they found among his mislaid or lost papers that the sum was duly paid and receipted for by Mr. Saint Pe who must now give to Mr. Chateau, good and entire security in case the said notes should appear again or be passed on to other hands so that in no manner should legal action be repeated against Chateau. Attached to this is Saint Pe's receipt.

Armed with these exhibits Juan B. Chateau presents a petition to Governor Unzaga setting forth that is it will appear therefrom Geronimo Matuliche owes him 207 pesos, 4½ reales, which he has tried on many different occasions to collect. As Matuliche now makes his home in Natchitoches he asks that the Lieutenant Governor there be authorized to summon him to acknowledge the debt and if he should do so to issue a writ of execution against him for the full amount of the debt its one tenth and costs.

Unzaga orders this sent to the Commander at the Natchitoches Post. This ends the record except for one detached page that seems to be the last part of a receipt for the original notes and bills, but as it is marked page 22 and the last page of the folio is 18, there are probably 3 sheets missing.

April 21.

**Succession of Raynoldo
or Renato Chouteau.**

No number. 316 pp.

Court of Alcalde Derneville.

Assessor, Cecilio Odoardo.

Escribano, Andres Almon-
ester.

The interesting feature of this record is a litigation by two slave women to enforce their freedom resulting from their emancipation by the decedent. The court rejects their demand and they appeal to Havana where the decision is reversed and the emancipation sustained, but the petitioners are held bond to contribute their appraised value toward the payment of the decedents debts and the share of his surviving wife and children.

but if any debts should be found it is his will that if legitimate these be paid.

4th.—He further declares he owns two negresses, one of them has two children, these slaves are named Rosa and Lizeta. He has already given them their freedom before the present escribano. This emancipation he confirms and ratifies.

5th.—He names Andres Bodaille as his testamentary executor.

6th.—He names as his legitimate and universal heirs, Renato and Augusto Chouteau, the children of his wife by him, so that they may inherit equally with the Benediction of God and of "mine."

The will is witnessed by Joseph Adrien de la Place, Antonio Reboul and Luis Liotau.

Alcalde Derneville rules, as the minors are absent from the city, with no one to represent them he appoints Francisco Broutin their curator ad lites and defender, who must be notified so that he may accept, take oath and give bond, and done, appoint him to office and deliver to him all the records of the case. Broutin qualifies, giving as his surety, Luis Lesassier.

Having fulfilled all the requirements, Broutin is appointed curator ad lites and asks for an inventory and appraisement of the estate left by the death of Rene or Renato Chouteau, naming Esteban de Quinones as his appraiser. He asks that the other interested party be ordered to do likewise within a short space of time.

This is a testate succession which opens with the official notification of the death, the certification to it by the escribano, the collection of the keys, search for the will, and probating of same.

In this will the testator declares,

1st.—That he contracted marriage according to the rites of the Church with Maria Thereza Bourgeois, a native of this city, of this marriage he has as legitimate children, Renato and Augusto Chouteau.

2nd.—That as these sons are minors, less than twenty five years of age, he selects and appoints Juan Paillet as their curator.

3rd.—That he owes nothing,

The Alcalde rules that Esteban de Quinones must be notified to qualify as appraiser within a short space of time. Andres Bodaille, testamentary executor, expresses himself as satisfied with the appraiser named by the curator to the minors and names the same to look after the interests of the other party.

The inventory is made in the presence of Alcalde Derneville, Escribano Almonester, Appraiser Quinones, Broutin, curator to the minors, Pedro Ignacio Cowley, attorney for the testamentary executor and Andres Bodaille testamentary executor.

The inventory covers household furnishings, wearing apparel etc. The inventory also includes the slave, Rosa, aged 24 years, with her two children, Maria Juana, aged 3 and the other an infant at the breast, six weeks old, named Reynaldo, all estimated at 500 pesos, and the slave Maria Isabel, aged 20, valued at 340 pesos. This inclusion disregards the emancipation by Chouteau before his death and his reiteration thereof in his will.

There is also a lot and improvements on Conti Street measuring 33 feet front by 55 deep containing a house 28 feet long by 32 feet wide, composed of 4 rooms with a double chimney, a kitchen 30 feet long by 10 feet wide with a large oven, the whole covered with shingles, valued at 200 pesos. Some little silverware and money is also mentioned.

*Among his papers there is noted a certified copy of the marriage contract before Henrique (Henry) notary of the French era, between Reyanlido Chouteau and his wife dated September 20, 1748. Also the title to the real property mentioned above, by act before Juan B. Garic, notary, sold by Luis Herry, called Duplanty to Mr. Chouteau, March 16, 1769. Also a certificate dated June 21, 1767 of the baptism of the said Chouteau.

The Executor Andres Bodaille asks to have the inventory approved and the parties ordered to abide by it. This is sent to the interested parties, and Francisco Broutin, curator not only makes no objections to the approval of this said inventory but he declares he finds it has been made entirely in conformity to law. He asks to have it approved and that all the parties be ordered to abide by it. The Alcalde (Derneville) rules that with the consent of all parties he approves the inventory and orders all to abide by it.

Broutin curator asks for the sale of the estate at public auction and that the calls be made for it as the law requires. The first call is made May 10, 1776.

The two slaves
appear and
contest this
order of sale.

This order to sell is instrumental in bringing the two negresses into Court to defend their freedom.

Rosa presents a certified copy of the act by which she appoints Leonardo Mazange her attorney to defend her liberty given her by her late master. She also presents a certified copy of the act of emancipation, dated May 20, 1775, in which her late master grants freedom to her and her child, on condition that she serve him as long as he lived, but in all other respects she is entirely free and that after his death, neither his heirs, nor assigns may contradict this nor reclaim them in any manner. With this evidence as the authority for her claim she alleges it is established that Chouteau gave her and her two children their freedom, but in spite of this they were inventoried with his estate. She prays the Court to receive this instrument mentioned. The Alcalde receives the act of emancipation and orders it sent to the interested parties.

Maria Isabel, known as Lucita appoints Mazange as attorney to defend her rights to freedom and presents her act of emancipation, dated May 26, 1775. By this act she is granted freedom on the same conditions as Rosa and in her petition she asks the Court to receive this copy of her act of emancipation, the Alcalde sends this to the other parties.

Andres Bodaille appears in answer to these suits and files a copy of Chouteau's marriage contract. Unfortunately this was subsequently removed from the record and pages 53, 54 and 55, which cover it are missing. Constant references are thereafter made to the stipulations of this contract. In answer to the petitions of Rosa and Luceta, Bodaille avers that the effort to free these slaves can have no place, because it would affect the debts and costs and also reduce the dowry of the widow and her share of one-half of the property acquired during the marriage. There is also a debt due Santiago Beauregard (64 pesos) and the funeral expenses and other creditors to be considered. These claims against the estate must be paid out of the appraised value of the two slaves.

Alcalde Derneville rules; that he has considered the claims for freedom presented by the negresses Maria and Rosa with her two children, according to the written instruments drawn up by Renaldo Chouteau to free them at his death; the claims of the curator of the minors based on the marriage contract presented on page 53 wherein it is proven that by stipulation he could dispose of only one-fifth part of his estate. This sum will be exceedingly small after the decedant's debts, funeral expenses and his wife's dowry are paid and certainly much less than the appraised value of the slaves.

He thereupon must declare and he does declare the emancipation granted as null and of no value and of no effect as is likewise the clause in the will ratifying the written instruments. In

consequence the slaves will be called for sale and auctioned with the rest of the estate. This decree is followed by the second public call for the sale of the Chouteau property.

Rosa appeals from the decision of Alcalde Derneville to Governor Unzaga reiterating her plea for her liberty. She denies that her late master left any debts and avers that the Alcalde has rendered his decree without the advice of Cecilio Odoardo, Auditor of War, who is absent and there is no other "Letrado" (legal counsellor) in the Province to instruct him. She prays that Unzaga interpose his authority as a Superior Judge and grant her her freedom and suspend the order for her sale until a decision is obtained from the Assessor General and Auditor of War or some other "Letrado" from Havana to whom she asks to refer the decision of this cause.

Unzaga orders this petition and the certified copy of the emancipation sent to the Alcalde in whose Court the Chouteau succession is being settled and forbids him to pass a definitive or interlocutory sentence without consulting an Assessor Letrado, who is required and will be named to fill the office by the King. Derneville acknowledges receipt of Rosa's petition and Unzaga's ruling and sends it to the minor's curator.

Broutin and Bodaille both answer the appeal opposing the granting of freedom to these two slaves and their removal as assets, because by so doing it will not leave sufficient funds to meet the obligations of the succession. These two petitions, (in opposition) are sent to the hégresses who answer in a joint petition, setting forth and demanding their rights under their acts of emancipation and their late master's will and refusing to accept the Derneville decree rendered without legal advice of an assessor. They ask that their cause be sent to the Tribunal established by His Majesty in the city of Havana, so as to have their liberty confirmed and in virtue of it to declare them free and to revoke Derneville's sentence.

Derneville rules to transmit these proceedings with a charge of 15 pesos Assessor's fees to Don Doctor Ignacio de Urrutia, lawyer of the Royal Audiences of Santo Domingo and a resident of the city of Havana, so that "I" may consult him on the decree that corresponds in the article promoted to give the freedom solicited to Maria, Rosa and her children. He orders a certified copy made of these proceedings to be sent to Havana and in conclusion he orders the call to continue for the sale of the house and movables left at Chouteau's death, excluding the sale of the slaves until their case is acted upon in Havana.

The third public call for the sale is given on June 3, 1776, and on the 17th the auction is held. The house furnishings, wearing apparel, provisions, etc., are offered item by item and adjudicated to the highest bidder. The real property was sold to Luis Borepo (Beaurepos) for 289 pesos.

Filed immediately after the auction sale is the legal advice sent by Ignacio Urrutia from Havana on the appeal of the slaves demanding their freedom.

After due consideration of the case, the adviser rules: considering all the evidence in the case presented to him says: the little mulatto, Renaldo, was not mentioned in his mother's act of emancipation, because he was conceived and born in the interim between the making of same and Chouteau's will. Since he is mentioned in this last document, therefore the judge of this cause must consider him as free-born from the time of his birth. That Rosa and her daughter, Maria Juana, and Maria Isabel are likewise free from the date of the authorization of their respective letters of freedom. Therefore the claims of the curator and testamentary executors to deprive them of their freedom is without place.

However the three slaves, excluding the boy, must be held as responsible for a part of the debts of the estate to the extent of their appraised value. Rosa and Maria Juana must therefore be re-appraised, taking into consideration the ages of both at the time they were given their freedom, and Maria Isabel (Lucita) will be considered as responsible for 340 pesos. These values to be added to the body of the estate.

The testamentary executor must pay all the legitimate debts proven to be just. The widow must be paid her share under the conditions of her marriage contract and the children their portions, and a one-fifth extracted from the entire estate, these added together and subtracted from the full value of all Chouteau's property will leave the amount that the slaves must restore to the mass after the one-fifth has been applied to them.

If the estate is large enough to pay all claims and the one-fifth equals the appraised value of the slaves, they will be released from all obligations to the decision, if however there are not sufficient funds to meet these, then Lucita must make good 340 pesos and Rosa and Maria Juana the amount of their new appraisal for whatever the estate lacks to meet all its obligations, to the extent of the other four-fifths. This decision is rendered in Havana October 25, 1776.

All interested parties are notified of this decision and each in turn asks to have it approved and all ordered to abide by it. Odoardo having returned to the city acts as Derneville's legal adviser until the end of the suit.

The Court rules that the escribano be notified of the decision from Havana so that he may note it on the let-

ters of emancipation of the slaves in conformity to the decision rendered therein.

In a second decree the Court rules that with the consent of the parties it conforms and does conform with the consultation from Havana and in consequence of it, revokes and does revoke the decision on the reverse side of page 57 (the original judgment). The escribano before whom the instruments of liberty were executed is ordered to note in conformity to the above decision a second note of revocation of the first decision. The records to be delivered to the curator of the minors so that he may conclude the proceedings.

Broutin, as curator asks for a re-appraisement of the negresses and that this sum be carried into the body of the estate for the consideration of the Executor and thereafter that the records be returned to him the curator so that he may promote what corresponds to his minors according to their estates. The Alcalde enters an order conforming to this and other appraisals is made by Esteban de Quinones, who values Rosa and her daughter at 450 pesos, Maria Isabel (Lucita) being held at her first appraisement, 340 pesos.

Broutin asks that the testamentary executor render an account and sworn statement of his administration of the Chouteau succession. This he does, filing ten receipts as vouchers.

Among the assets he enters 14 pesos for the rental of Lucita from the day she was hired out up to the day of reckoning. For Rosa and her child he enters the 450 pesos at which they were re-appraised, this amount to be entered into the body of the estate. The full amount of her rental to be placed at the benefit of the heirs as well as the 340 pesos at which Lucita was again appraised. In the list of debits of the estate he enters 4 pesos, 4 reales for food for the negresses from the date of Chouteau's death until they were hired out.

The Recapitulation reads:

Full amount of the Assets and Credits	Pesos	1342	4
Deductions	Pesos	985	2
<hr/>			
Liquid Balance	Pesos	357	2

Francisco Broutin contests Bodaille's account and sworn statement and presents his own which reads:

Assets	1342	4
Debts	993	2
<hr/>		
	349	2

Odoardo rules that with the consent of the parties he approves the account and sworn statement presented by the testamentary executor with the exception of the costs of the receipt at page 107. (Santiago Leduc's receipt contested by Broutin) as the amount was never received and in consequence he orders Andres Armesto to make the partition and to tax the costs which will be deducted from the body of the estate, but first he must accept and take oath, Armesto qualifies and taxes the costs at 219 pesos, on December 14, 1776.

The partition is as follows: the liquid sum to be divided amounts to 792 pesos, 1 real. Of this amount,

The widow, Mrs. Maria Thereza

Bourgeois is to receive.....	396 pesos	$\frac{1}{2}$ real
The son Renato Chouteau.....	198 pesos	$\frac{1}{4}$ real
The son Augusto Chouteau.....	198 pesos	$\frac{1}{4}$ real

792 pesos 1 real

A note stipulates that the negresses Rosa and Maria must remain responsible for the sum of 325 pesos, 2 reales and Maria Isabel (Lucita) for 340 pesos, which amounts must be satisfied by them with the receipts from their wages. This amount must be earned before they may enjoy the full use of their freedom. The record ends here. It was a costly fight, the official charges covering 219 pesos more than 25% of the values in issue.

April 21.

Succession of a free negress called Juana, inventory and valuation of her estate with much litigation over the custody of the proceeds.

No. 44. 135 pp.

Court of Alcalde Pedro, Assessor, Juan del Postigo. Enrique Derneville. Escribano, Andres Almonester.

The record opens with a certified copy of Juana's notarial will presented by her universal heir and testamentary executor Pedro Viejo, Pierre Vieux or "Old Peter."

The tops of the pages of the will are entirely torn away but from what remains it may be gleaned that the testator is a native of Guinea, legitimate daughter of a negro named Berry and a negress named Cecilia, both dead.

She declares that she has never contracted marriage with anyone either inside of the city or beyond

it. She entered into a business partnership with Old Peter, they had no capital and what they have to-day they made together. (the next four lines are entirely torn away but it is to be supposed that she declares that the contents of the shop belongs to them jointly one half each). In her house there is a sum of 800 pesos in silver one half of which belongs to her and her own slave, Francisca, aged 30 years, and some merchandise in their little shop.

In the house where she lives there are some movables and household effects for her own use. She asks that her testamentary executor give the one third of her estate to a free negress named Victoria because of the great love she bears her as she has raised her as a daughter in her house.

She further orders her executor to buy Joseph, aged about 25 and Juana, aged about 20 (according to what she has been told they belong at present to one called Pelagie) for the price of their appraisement and when this is done liberate them from slavery. These proceedings must be carried out according to law and a just price paid for them. This act she also does because of the great love she bears for them having raised them as her own children in her own home. She names Old Peter as her testamentary executor, whom she also names as her sole and universal heir.

Old Peter, as Juana's heir and executor asks for an inventory and appraisement of the estate, Alcalde Derneville rules to let the inventory be made with Esteban de Quinones as appraiser and to summon Victoria, the free negress, who is likewise an heir for one third of the estate. Quinones qualifies.

Escribano Almonester declares that he has looked everywhere in the city to find Victoria to summon her for the taking of the inventories, but he has been told that she is absent and is in Martinique. Derneville then appoints Francisco Broutin to act as defender to the absent legatees, Broutin qualifies.

The inventory is begun in the presence of Alcalde Derneville, Francisco Broutin, defender for the absent legatees, Pedro Cowley attorney for Old Peter, Andres Almonester, the escribano and Esteban de Quinones the appraiser.

The estate consists mostly in household effects, a small writing desk with six walnut drawers trimmed in gilded copper with one large drawer valued at 2 pesos. In the desk was found a little stamped silver, (silver coins) which was gathered up and counted in the presence of the Alcalde and the witnesses including the escribano. They found in all 120 pesos in different kinds of silver money. This item the Alcalde ordered them to note in the inventory in the body of the estate as 120 pesos.

There was also a little cypress cupboard containing three rolls of tobacco etc. They enumerated the stock in trade of the little shop consisting of goods by the yard, cotton, calico, silks of various colors, thread, buttons, etc., garments made up, such as shirts, smocks, etc., besides the contents of the shop they found Juana's wearing apparel, household linen, furnishings, provisions, etc.

The executor asks to have this inventory approved and the interested parties condemned to abide by it. This is sent to the others and answered by Broutin, Victoria's defender and also representing the interests of the other two beneficiaries, stating that he can not approve the inventory because as it will appear from the will the testator left 800 pesos in silver besides much merchandise, but they have found only 120 pesos and very little merchandise and among her clothes only one good chemise and two used ones which is not possible, he therefore asks that Old Peter as testamentary executor and guardian of the estate give an account of the whereabouts of Juana's entire estate.

Old Peter answers that he has been called upon by the defender of the absent heirs to deliver certain sums of money and merchandise that he never received, although the testatrix declared in her will that she had them, he knows nothing about these items. He reiterates his plea to have the inventory approved and the other parties condemned to abide by it.

Broutin answers there is a strong suspicion that Old Peter guardian of the estate has hidden the greater part of the money and goods. As regards Carlota's note for 100 pesos presented by Old Peter after the inventory was closed it looks as if he had hidden this too, but as he could not collect it in secret, he had to produce it, therefore it may be inferred that he has done the same with other sums of money and merchandise. He prays that he be condemned to pay 680 pesos that the fund lacks of equaling what Juana declared she had in her will and also to give an account of the whereabouts of the rest of the property.

This petition is ordered sent to Old Peter who asks that the defender's claim be excluded as it is ill-founded and to order the inventory approved and all interested parties condemned to abide by it. Alcalde Derneville orders the case to go on trial within five days.

The required time having elapsed both parties, (in separate petitions) ask for the publication of the proofs. Derneville orders this done. The first proofs to be filed are those of the defender of the absent heirs against Old Peter. He presents an interrogatory of two questions to be put to the free negress, Magdalena Fatin or Tatin, namely,

- 1st. Did not Juana before her death, have a shop full of good merchandise besides much property that she managed as her own. Magdalena answers that she does not know.
- 2nd. Is it not true that the negress had 800 pesos in silver in her armoire and that she was robbed of it after her death, who robbed her of it and in what place is it hidden?

She answers that all that she knows is that the negress before her death showed her a letter that she had

written to her (adopted) daughter and to Joseph and Juana telling them that she had made her will and that she had about 1000 pesos including her slave negress, that she wished all that she had distributed among them after her death.

A second interrogatory was presented upon which Juana's slave, Francisca is to be examined. It is along the same lines asking about the 800 pesos and the stock in trade belonging to the shop and the stealing of her possessions just as soon as she died.

Francisca answers in substance that her owner had a little box shut up in her armoire where she kept a portion of stamped silver but she does not know how much. After Juana's death the armoire was opened by Old Peter who asked her for the keys for this purpose. She does not know what he took out because she was not present at the time. The armoire was opened at 7 o'clock in the morning of the day Juana died. Her owner had some merchandise also, before her death.

A question was put to her if after Juana died she was not robbed of the greater part of her merchandise and her clothes. She says she does not know because just as soon as Juana died Old Peter put her out of the house, so she does not know what goods and clothes were stolen, nor by whom they were taken nor where they are now. She added that no one had induced her to be silent nor had anyone ever threatened to ill treat her if she went and told anything of the robbery and that no one had offered her anything as a bribe not to tell anything.

Pedro (Old Peter) then presents his proofs after many petitions to be conceded more time to call his witnesses and ends by asking to use his petitions already filed on pages 8 and 13 denying that Juana's estate was more than the inventory showed and not equal to what she had mentioned in her will except for Carlota's note for 100 pesos that had been paid and the original returned to her.

Broutin in reply says, that the testimony given by Magdalena Tatin and Francisca is not sufficient proof that any assets have been hidden therefore he asks for a sale of such property as appears in the inventory. This petition is sent to the opposition.

Derneville approves the inventory and orders the estate sold at public auction. The three public calls required by law are given July 1st, 4th and 8th, and on the 21st the auction is held when the articles inventoried are sold off one at the time and adjudicated to the highest bidder. When the sale is finished

Broutin asks that Old Peter give an account and sworn statement of his administration of the estate.

This he consents to do and asks for the return of Carlota's note for 100 pesos in favor of Juana which was removed from page 37. This was given to him and he receipts for it. He then files 8 vouchers and gives his reckoning as;

Assets	686 P.	3 R.
Debts	134	1
		<hr/>
Liquid Balance	552	2

He asked the approval of the account and that all interested parties condemned to abide by it. Broutin contests the accounting claiming it should be;

Assets	686 P.	3 R.
Debts	143	1
		<hr/>
Liquid Balance	544	2

With the consent of both parties Alcalde Derneville approves the account and sworn statement presented by Pedro Viejo (Old Peter) and condemns all parties to abide by it. He further orders a taxation of the costs by Manuel Lopez Armesto under oath and on one form. Also that there be deducted from the liquid balance produced by the sale the one half of the full value which belongs to the absent legatees. Let this amount be put out at interest with some person under bond so that he may pay what corresponds in conformity to law and that he may hold this sum in his possession at the disposition of the Tribunal, the bond must be executed to the satisfaction of the defender named.

Manuel Andres Lopez de Armesto qualifies and taxes the costs (August 14, 1776) at 139 pesos 2 reales. This is followed by a note signed by Almonester to the effect that by written agreement executed before him on this day of date Joseph Foucher, resident of this city received 205 pesos in conformity to the foregoing decree. New Orleans November 6, 1776.

Here the case rests until April 26, 1785, when Francisco Broutin files a petition in the court of Alcalde Nicolas Forstall (Rafael Perdomo, escribano) in which as defender of Juana's absent heirs he sets forth that Pedro Derneville, Alcalde, in whose Court the succession was settled, ordered the funds belonging to his clients to be out at interest with some person bonded according to law and to his entire satisfaction, as defender.

That pursuant to this Don Joseph Foucher, Treasurer of the Army of this Province received said funds and made his note on November 6, 1776 for 205 pesos. Mr. Foucher now

wishes to return this money. May it please the Court to order him to return it to the petitioner as a person well known and bonded and as defender for his clients, he obligating himself to pay the said sum with interest and in conformity to law, and that the previous obligation made with the Treasurer be declared as null, broken and cancelled.

Forstall rules: Let a certified copy of the obligation that he cites be filed here, and done continue with the proceedings of this affair.

This decree is followed by a certified copy of Foucher's obligation mentioned in the last petition. On this certified copy, the Alcalde rules: let this copy be attached to the principal records of the settlement of Juana's succession and send the entire file to Licenciado Don Juan Doroteo del Postigo y Balderama so that I may consult his as to what is legal.

Broutin thereupon files another petition saying that Joseph Foucher, Treasurer received 205 pesos at 5% interest on November 6, 1776, belonging to his clients, the Treasurer now wishes to pay back, capital and interest, the full sum amounting to 295 pesos, 4 reales, up to and on the 6th of the current month. May it please the Court to order Mr. Foucher to deliver this sum to him which he will guard in his possession paying the same interest. He will hold this money at the disposition of the Court as a bonded person and will deduct from this amount sufficient money to pay the lasts costs.

Forstall orders this petition sent to Mr. Foucher who answers to the effect that he is ready and willing to turn over to Mr. Broutin the principal and interest on the money in his keeping belonging to some absent colored heirs according to terms arranged by this Court provided Broutin give him the corresponding receipt for his own protection.

On Postigo's advice Forstall rules: let Antonio Mendez be substituted for Francisco Broutin as attorney and defender for the absent heirs, Victoria, mulattress, and Juana and Joseph, free negroes, and as their defender let the records of this case be delivered to Mendez so that he may promote what is convenient to the interests of absent heirs until they be found.

Antonio Mendez as defender named to replace Broutin in representing the interests of Juana's colored heirs, sets forth that the records of the case having been delivered to him so that he may promote what may be suitable to the said interests of his clients. In accordance with this decree he prays that Mr. Joseph Foucher, Treasurer of the Army, be ordered to exhibit before the present escribano the sum of 295 pesos, 4 reales, in new coins of Mexico which he holds in his possession by virtue of a previous decree and done let his obligation be cancelled.

As regards Francisco Broutin's petition it can not, nor must not be granted, because in the first place having ceased to be

the defender of the absent heirs, the money should not be left in his possession, as it would be greatly to his (Mendez') detriment if such was permitted, and secondly, because he asks to hold the money simply on his word and without giving bond for its security, this arrangement might occasion great loss to Victoria, Juana and Joseph.

Having stated his objections to allowing Broutin to borrow the funds belonging to the absent heirs, Mendez declares himself to be the fit person to be entrusted with the money and offers to execute the necessary bond, for the security of the principal and interest of same, immediately. This bond to begin from the day that the 295 pesos, 4 reales, are turned over to him until such time as this Tribunal orders them restored to the rightful owners or other disposition is made of them.

This petition is ordered sent to Broutin, who answers that as attorney Mendez can not hold this sum in his possession because he must always maintain their rights as attorney and defender of them. As regards himself, he is known to be a bonded person, who offers a bondsman who will be able to fulfill all requirements. He asks that the money be delivered to him and that he will pay interest from the day the Tribunal places it at his disposal until such time as some other order is given.

This is sent to Mendez, who opposes Broutin by saying the charges made that he should not be allowed to hold the money because he is attorney and defender is a libel. There is no reason why he should not be allowed to borrow the funds of his clients if he gives good and sufficient bond. This he is ready to do, offering to pay 6% interest annually on the money from the day it is turned over to him until such time as the Court makes other disposition of it.

On Postigo's advice Alcalde Forstall rules: Whereas the increase in interest that Don Antonio Mendez offers to give in favor of the absent heirs must be taken into consideration. Let him give full, free and sufficient bond that he will answer to the legatees for the capital and interest. Notify Joseph Foucher to deliver to the abovenamed the sum of two hundred and ninety-five hard pesos, four reales. The interest that has run from April 4, of the year one thousand, seven hundred and eighty-two, may be paid in current paper money. (A marginal note says the bond has been furnished).

April 5, 1786, Alcalde Orue, on Postigo's advice, rules: Considering that the bond has been drawn up according to the above note, let the costs of the proceedings be taxed by Luis Liotau, who must first accept and take oath. These costs must be paid by Antonio Mendez in whose possession the principal and interest belonging to the absent heirs is now held. The taxation must include an assessor's fee of 32 reales for this decree. Luis Liotau qualifies to make the taxation, which does

not appear in the record which closes with his sworn promise to make this taxation faithfully and well.

April 25.

**Antonio Gayarre vs.
Luis Morant.**

No. 3716. 4 pp.

Court of Alcalde Derneville.

No Assessor.

Escribano, J. B. Garic.

To collect a note, good for 3 cows and 3 calves.

offered to do so many times but plaintiff always refused to accept them because he did not wish to pay the costs caused by the litigation. He refuses to sign this declaration which he says is the truth under charge of his oath and that he is 22 years of age. This ends the record.

The plaintiff presents defendant's original note dated March 21st, 1775, good for three cows and three calves and also his procuration appointing Pedro Cowley as his attorney and sets forth that the defendant owes him the cattle mentioned in the note and asks to have the obligation verified.

Morant does this, saying he is ready to pay the debt and has

April 25.

**Carlos Onorato Olivier,
as testamentary executor
presents his father's will.**

No. 9. 25 pp.

Court of Governor Unzaga.

No assessor.

Escribano, Andres Almon-
ester.

This is one of several examples in the Spanish Archives where the testator settles his entire succession by will, that is within this written instrument he makes a will, appraisement and partition of all his property. It will be made the subject of a separate paper on testate and intestate successions.

**Proceedings brought by
Carlos Onorato Olivier as
Testamentary Executor and
heir of Pedro Olivier, or
Vezin his father.**

No. 9. 25 pp.

Court of Governor Unzaga.

No Assessor.

Escribano, Andres Almon-
ester.

The decedent's will partitioning his estate among his children and thus an appraisal by the court and accepted by the heirs.

The record opens with the filing of the will in which Pedro Francisco Olivier De Vezin says he was born in Braugani, in the Province of Sampagne, France, son of Hubert Olivier and Louise Berrous. He married Josephine Marie Duplec (Duplessis) and that by this marriage they have seven children, Carlos Honorato to whom he has resigned his officers of Perpetual Councilman (regidor perpetuo) and Provincial Judge; Dona Carlotta, widow of Daniel Fagot, late councilman of this city; Delayde (Adelaide) married to

Don Esteban de la Lande La Cour, Louise, spinster, Pedro, Nicolas, and Carlos employed in the services of the King in the fixed battalion of this place.

The next nine pages of the text of the will cover the details of the inventory and valuation of the property, his estate, made in his presence by expert appraisers, consisting of slaves, a plantation, a square of ground in New Orleans, with improvements, silve. ware, nouse furnishings, etc.

He mentions the debts due by him and to him and arranges for the partition of his estate making special provision for his unmarried daughter, Louise.

He names his son, Carlos Onorato, as testamentary executor and charges his to divide his property amicably, the seven parts, among the seven heirs without resorting to the Courts, each one obligating himself to pay his pro rata of the funeral expenses.

The will is dated New Orleans, April 16, 1776, executed before Andres Almonester, Notary, in the presence of Pedro Doubergé, Carlos Regio and Gabriel Pero, witnesses. There are two notes, items added thereto stating the sums of money advanced to his two daughters at their marriages these to be carried in the body of his estate.

Another note says the testator died April 20, 1776. This is followed by the certificate of Almonester that the above will is a true copy of the original.

Carlos Olivier, testamentary executor, presents a copy of the will, asks for its approval, and that the Court interpose its authority and judicial decree. Unzaga rules that the will having been presented let its provisions be carried out. He further approves it and for its validation and stability interposes his authority and judicial decree.

Louisa Olivier petitions to name her brother, Carlos Honorato, her curator with power to receive and administer for her the estate inherited from her father. Unzaga rules accordingly ordering the curator to accept, take oath and give bond. Carlos Onorato Olivier qualifies. Almonester certifies that the required bond was executed before him on June 10, 1776. This is followed by the act appointing the curator which ends the record.

April 30.

**Marie Hamy, wife of
Santiago Le Maire vs.
Francisco de la Barre.**

No. 10. 15 pp.

Court of Governor Unzaga.

No Assessor.

Escribano, Andres Almonester.

To collect a debt.

Plaintiff sues on bill for merchandise 374 livres, 1 sol or 74 pesos, 6½ reales which she has been unable to collect. The debt is paid on May 20, 1776, and is receipted on the original bill.

May 1.

Urban and Mariana Huet called Dulud ask to have an account rendered of the estate left by Miguel Huet called Dulud.

No. 3719. 21 pp.

Court of Alcalde Santiago Livaudais.

No Assessor.

Escribano, J. B. Garic.

Plaintiffs present two powers of attorney, the first dated May 12, 1770, executed before Francois Racicot, Notary Royal at Bourg de Boucherville in the Province of Quebec, Canada, by which Urban and Marie Anne Huet called Dulude appoint as their special and general agent Louis Renaud called Duval of Pointe Coupee of the German Coast to act for them in the settlement of the succession

of Michel Huet called Dulude, their brother, who lived in New Orleans.

The second is dated May 1, 1771, Pointe Coupee, by which Louis Renaud (Renaud) called Duval as agent for his clients in Canada appoints Leonardo Mazange, attorney at the Cabildo, to act for them in collecting what should come to them from their late brother's succession that is now in the hands of Olivier de Vezin and to retire the procuration held by him. Signed Crozier, Duval, Missioniere.

Mazange petitions on behalf of his clients asking that Joseph Ducros, Regidor Perpetuo and General Receiver render an account and deliver to him the liquid balance of the estate of Miguel Huet, called Dulude, that he holds belonging to the brother and sister of the deceased.

Alcalde Livaudais orders this petition sent to Ducros and for him to give an accounting to the heirs.

Ducros gives the account and sworn statement as:

Assets	13717 livres	sols	11 deniers
Debts	5413	10	
Balance	8303	10	11

He asks the Court to approve this and done to interpose its authority and judicial decree and to order the heirs to abide by it.

This account and sworn statement is sent to Mazange who answers that he finds nothing to contest in it and consents that it be approved by the Court and that the balance 8303 livres, 10 sols, 11 deniers, be turned over to him, together with all papers, letters of exchange and documents which he will transfer to his clients.

Alcalde Livaudais renders final judgement to the effect that with the consent of the parties he approves and does approve the account and sworn statement rendered by Regidor Joseph Ducros of the estate of Miguel Huet, called Dulude, which was placed in his charge during the French Domination and in conse-

quence he orders the parties to abide by it. And he interposes and does interpose his authority and judicial decree in as much as it has place in law. That there be delivered to the heirs the balance of the said account together with all the documents that they have requested from pages 5 to 16, inclusive, under a receipt drawn up in due form and that Andres Armesto tax the costs of the case, after he has accepted and taken oath, the costs to be paid by the heirs. The last part of this record is missing. The first two lines of a formal receipt ends the folio.

May 11.

**Francisco Delery vs.
Santiago Beauregard.**

No. 28. 13 pp.

Court of Governor Unzaga.

No Assessor.

Escribano, Andres Almon-
ester.

To collect a note.

Plaintiff presents the original note, afterwards removed, and asks to have a debt of 115 pesos, 2½ reales, due for lumber, verified and paid.

Beauregard acknowledges the signature but says that he does not owe the debt because on the same day that the note is dated he arranged his accounts with the

plaintiff and was given a receipt in full up to that day.

He further declares that on the date that the above note was made Mr. Delery issued a note to him for 1900 livres, this sum he has paid him in felled trees to be used to make boxes for sugar that he delivered to him and it is upon this debt that he bases his judicial demand.

Mr. Delery then asks for a writ of execution since Mr. Beauregard has acknowledged his signature. Unzaga orders Santiago Beauregard to come to an agreement with Francisco Delery within three days for the sum demanded with a warning that executory proceedings will follow.

The defendant answers denying the debt, asking that the records of the case be delivered to him so that he may enforce his own petition. The records are ordered sent to him for two days without prejudice to the state and nature of this cause.

After some further legal delays, Francisco Delery says he has been paid and asks the return of the original note and a taxation of costs. He signs a receipt for the return of the note removed from page 2 and Armesto taxes costs at 10 pesos, 5 reales.

(To be continued)

Letter to General Andrew Johnson

Dear General:

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the matter of the application of the late General James B. McPherson for the rank of Major-General in the United States Army. I am sorry to hear that you are unable to give him the rank he desires, but I am sure you will do all in your power to secure for him the recognition which he so justly deserves.

I am, Sir, very respectfully,
Your obedient servant,
John A. Johnson

Enclosed for you are two copies of a report of the Adjutant-General, which will show the facts of the case and the action of the War Department thereon.

I am, Sir, very respectfully,
Your obedient servant,
John A. Johnson

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